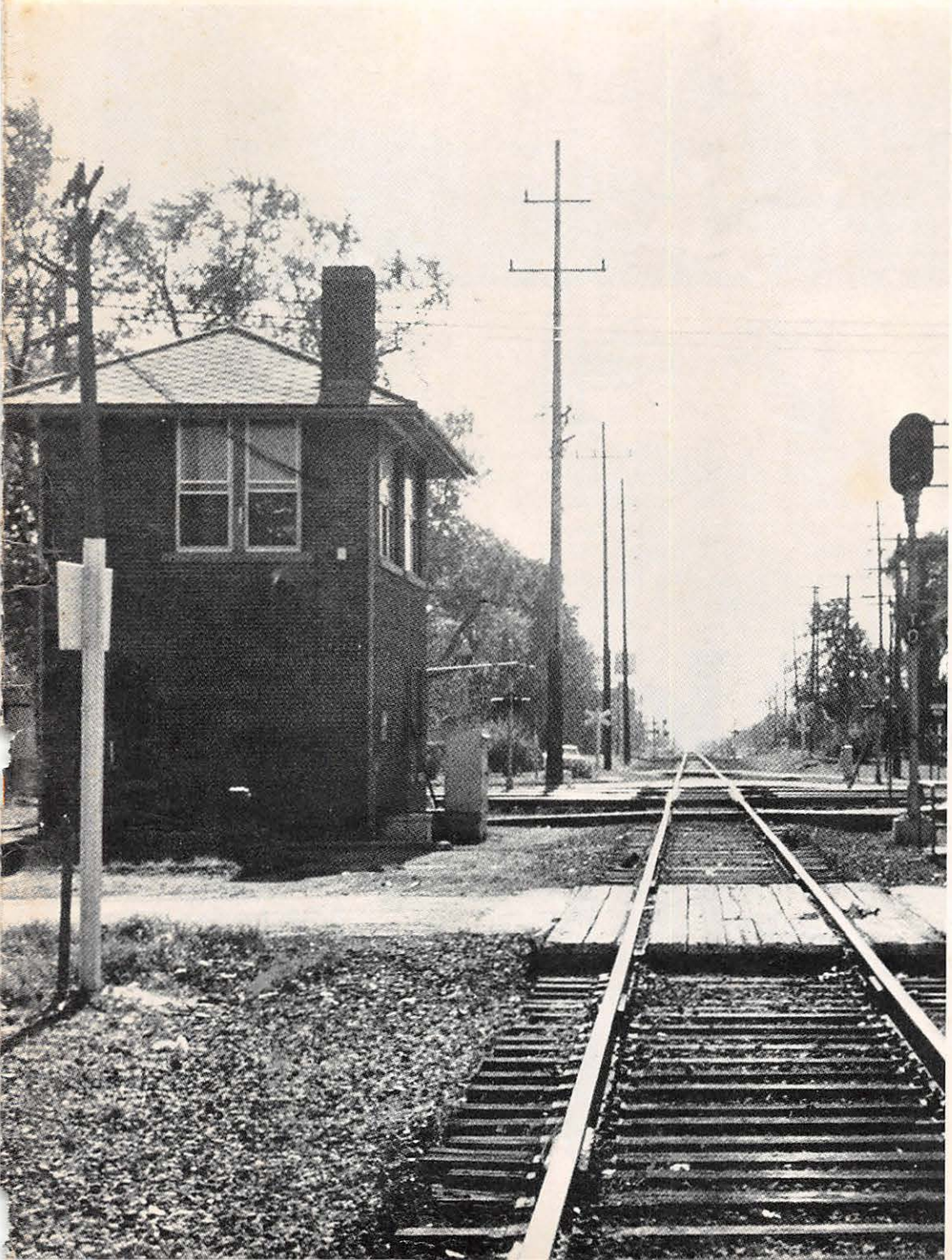
The Signalman's
JOURNAL
JULY-AUGUST, 1971



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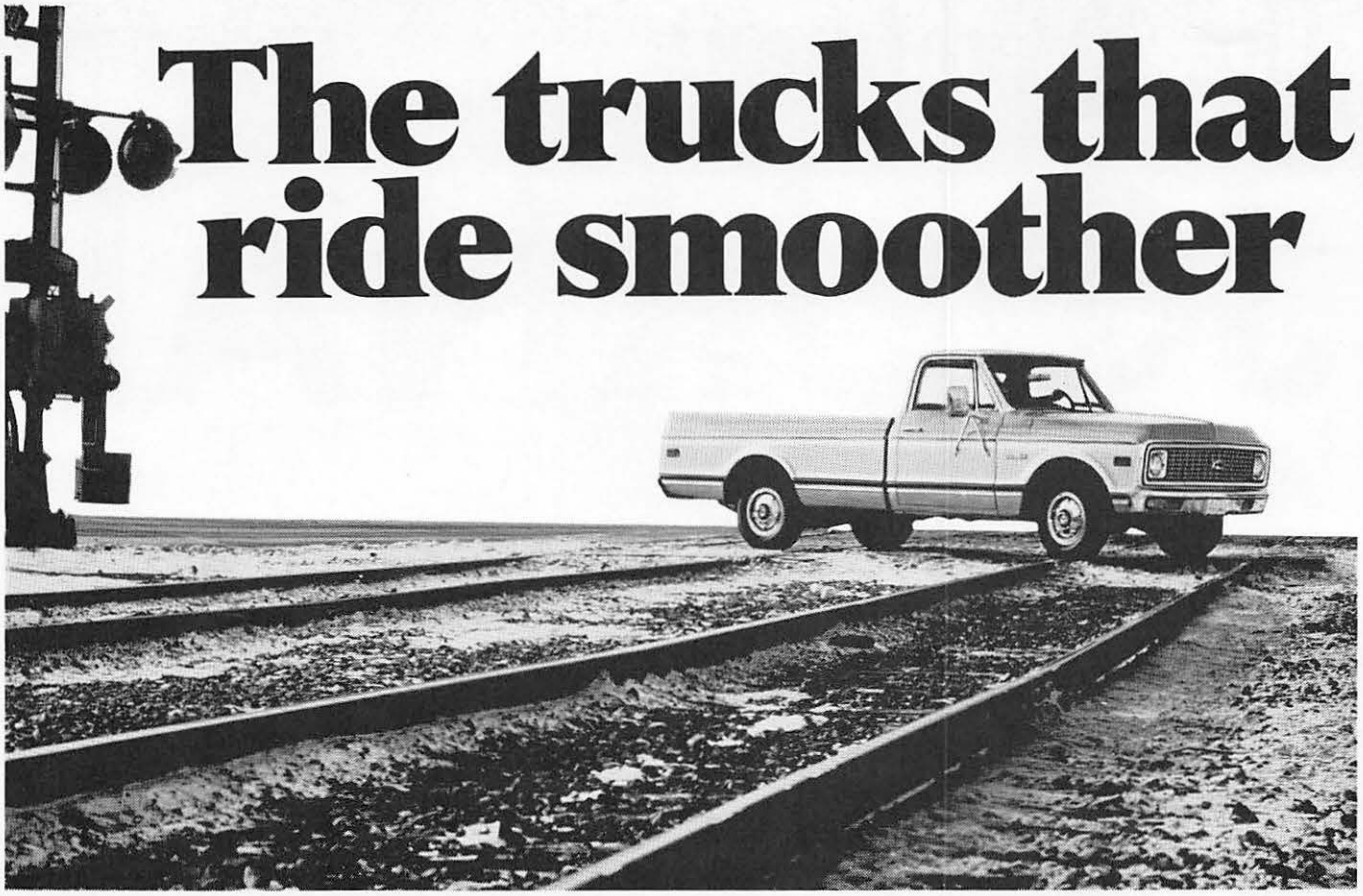

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Over the years Chevrolet has led the way in engineering a smooth truck ride.

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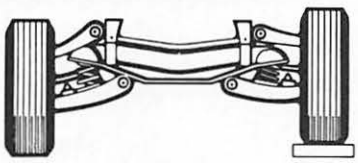

trucks don't give you a choice.

And most trucks don't give you Chevy's steady wide stance ride.

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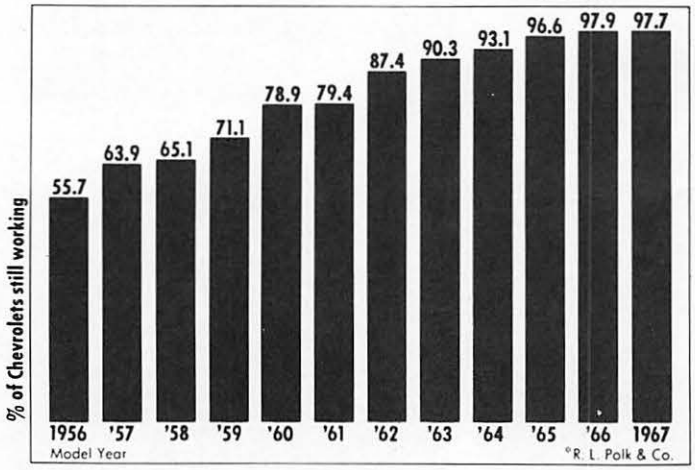
No competitive make has as many as half of its '56 models still working. Chevrolet trucks last longer because they're built tougher.

last longer



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JOURNAL COVER PHOTO

The tower in this month's Journal cover picture controls the crossing of the Elgin, Joliet & Eastern Railroad and the Chicago & North Western Railroad at West Chicago, Illinois.

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POSTMASTER'S NOTE: Please report all undeliverable magazines to The Signalman's Journal, 2247 Lawrence Ave., Chicago, Ill. 60625 on Form 3579.
ADDRESS CHANGE: B. of R.S. members or other subscribers should promptly advise the editorial office, 2247 Lawrence Ave., Chicago, Ill. 60625 if this magazine is coming incorrectly addressed or if they change their address. A Change of Address Form is printed in each issue for that purpose.

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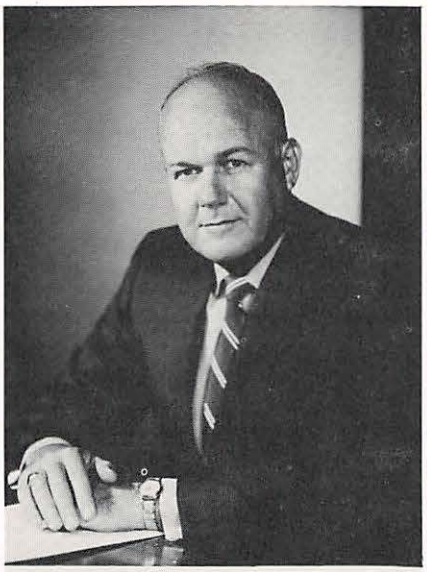
A Message From President C.J. Chamberlain

THE PENN CENTRAL BANKruptcy continues to dominate a major portion of the news items emanating from the railroad industry. We continue to be barraged with information as to what is being done to save the Penn Central from total collapse and restore it to a viable competitive railroad.

We could debate the causes for the Penn Central going into bankruptcy, however, that would serve little purpose and those responsible for restoring the railroad to solvency claim that every effort is being made in that direction.

Of course, as is generally the case, we are told by management that one of the primary causes for the Penn Central's poor financial condition is too many employes and their high wages. Events that have occurred on the Penn Central in the past few weeks which have resulted in sizeable force reductions in the signal and communication department, and we assume in the departments of other crafts, indicate that the present Penn Central management is doing everything possible to reduce the number of employes as fast as possible. We were officially advised by the Penn Central management that a total of 359 jobs were abolished in the signal and communication department on or about May 30, 1971. Is it significant that the big force reduction took place immediately following our two day strike on May 17 and 18, or is it just a coincidence?

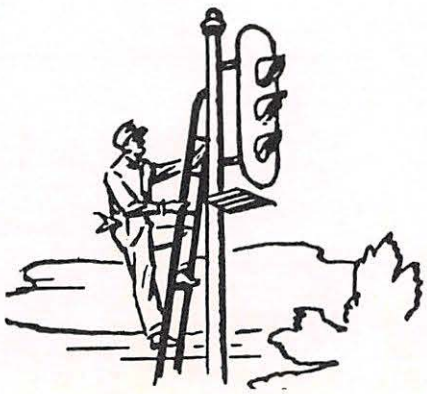
Whatever the reason, the force reduction took place and 359 signal and communication employes were turned out into the street. This staggering loss of construction and maintenance jobs on a railroad that was already undermanned and short of skilled signal and communication personnel, was certainly a stroke of genius by management, and unquestionably in their opinion will permit the railroad to take another step forward in their comeback program. I am sure that the big force reduction will also serve to improve the morale of the remaining employes and inspire them to give the company that extra effort and assume just a little more of the work load. After all, signal employes are known to be work horses and it doesn't hurt to pile a little



more on their already strained backs. Even though signal territories were already expanded and overloaded to the point where it was virtually impossible to maintain the signal and communication facilities in accordance with government regulations, management apparently feels that fewer signal employes will make little difference.

In our opinion, the Penn Central management took a very big step *backward* when they furloughed 359 skilled signal employes from their signal and communication departments. This force reduction appears to be inconsistent with the views of Mr. W. H. Moore, president of the Penn Central, regarding the economic values of signaling systems, as we note in an interview in the March 29 issue of Railway Age he recognizes that signaling pays as he is quoted as saying:

"I strongly question the need for three and four tracks all the way from here [Philadelphia] to Pittsburgh. We have a study going on right now to put in CTC between here and Pittsburgh, and also between New York and Washington. The resulting economies would pay for this CTC program in pretty quick order. We have block operators every 8 or 10 miles from New York to Washington, with each one controlling just his bailiwick. I see no reason why every bit of this could not be done from Philadelphia."



Mr. Moore is correct in his estimation of the economic values of CTC as well as its primary function of expediting traffic, however, how does he expect to install and maintain such a system with an already undermanned signal and communication force?

Mr. Moore also recognizes the need for improving present classification yards and constructing a new one at Cleveland, Ohio, as evidenced by his response to the following question in the same issue of Railway Age:

"Q. Do you see the need for new or enlarged class yards at any points on the system? Are there steps Penn Central can take to reduce terminal costs?

"A. We have drawn plans for improvements at four of our major gravity yards, and work is already under way at some of the smaller flat switching yards. At Cleveland, we really need to construct a modern gravity yard so that we can eliminate the multiple handling of cars through the present outmoded system of yards —however, I don't see how we can accomplish that job in 1971. I hope that we can get it started early in 1972. By providing modern switching facilities and establishing good controls over their operation, Penn Central can do much to reduce terminal costs. We have already seen an excellent example of this in our Buckeye Yard at Columbus, which we opened just last year."

Again, Mr. Moore is correct in his estimation of the economic values of automatic classification yards and their primary function of expediting cars through the yard, however, how does he expect to install and maintain such highly complex automatic classification yards

with an already undermanned signal and communication force?

It seems to me that the penny-wise and pound-foolish approach by the Penn Central management with respect to not maintaining an adequate force in its most important signal and communication department is a sad mistake. How can the Penn Central expect to realize the economies of new signal installations and improving existing systems with such a shortsighted policy. Unfortunately this same shortsighted policy is being followed on far too many railroads today.

The Penn Central Railroad is a giant corporation and those of us who have devoted our lives to the railroad industry and are fully aware of its importance to our national economy and safety, are certainly hopeful that it will once again be restored to a position of a viable company.

At this point, based upon its performance in the past few months, we have serious reservations as to whether some of the policies being followed are consistent with that objective. We hope that the present Penn Central management will realign and reassess its priorities, as in our opinion continuing some of its present policies and maintaining its present attitude of total disregard for its employes can only mean further deterioration of the Penn Central situation which will conceivably have an adverse effect on the entire railroad industry and its objective of remaining as a free enterprise system.

Letter Carriers Protest Poor Mail Service

THE JUNE 1ST ISSUE OF the Wall Street Journal reported that letter carriers are protesting poor mail service.

Their union complains the May issue of its magazine reached some California members on May 4 while subscribers living only 10 miles from the printing plant in Washington, D.C. never received their copies until May 14. Who's to blame? Postal management declares the union.

The Signalman's Journal is printed in Waterloo, Wisconsin and placed in the mail at Waterloo. Copies going through the Chicago Post Office leave Waterloo at 5:00 p.m. on the night they are mailed and arrive in Chicago at 11:00 p.m., yet it takes two weeks to get delivery at Grand Lodge Headquarters.

Most Labor Press Editors are complaining of the poor service to the Post Office Department in Washington, D.C. but most complaints are reaching deaf ears.

On June 14 the chief executives of railroad unions attended a meeting at the White House to discuss AMTRAK and other matters of mutual interest with President Nixon. Those attending were clockwise from left: Pres. A. L. Krause, Carmen; Pres. James Yost, Ry. Emp. Dept., AFL-CIO; Pres. C. R. Pfenning, Dispatchers; Sec. Treas. B. L. Sorah, BMWE; Pres. Chas. Luna, UTU; Pres. C. J. Chamberlain, Signalmen; Pres. C. L. Dennis, BRAC; Pres. A. T. Otto, Yardmasters; Pres. J. R. Tipton, Ry. Supervisors; Grand Chief C. J. Coughlin, BLE; Intl. Vice Pres. R. W. Smith, Dining Car Emps.; Vice Pres. J. W. O'Brien, Sheet Metal Workers; Under Secy. of Labor Laurence H. Silberman; Secy. of Labor J. D. Hodgson; President Nixon; Secy. of Transportation John Volpe; Asst. Secy. of Labor W. J. Usery, Jr.; Sec. Treas. J. J. McNamara, Firemen & Oilers; Dir., Railroad Unit, C. E. Goodlin, Boilermakers; Vice Pres. W. W. Winpisinger, Machinists; Vice Pres. F. T. Gladney, IBEW.

Wage Negotiations Entering Final Round

General Chairmen Meet in Chicago

ON FRIDAY, JUNE 4, AS THE Signalmen's Negotiating Committee was preparing for a showdown in our wage dispute with the nation's carriers and following congressional action that ended our two-day strike, General Chairmen responded to a call issued by President Chamberlain to meet in Chicago.

The meeting had a twofold purpose: first, President Chamberlain gave a full report of all negotiations up to the present time; second, to report on and discuss the legislation passed by Congress on May 18.

President Chamberlain told the General Chairmen assembled at the LaSalle Hotel, that the support and loyalty displayed by the Signalmen and their families will eventually bring about an agreement that will be satisfactory to our members. He hailed the effective, determined efforts by Signalmen in their fight to gain economic justice.

He commented on the display of solidarity of all railroad workers on May 17 and 18 and stated that it clearly showed the spirit of brotherhood and trade unionism is very much alive in the railroad industry.

The respect given our Brothers by all other rail organizations, not only in honoring our picket lines but helping man our picket lines, Chamberlain said, proved all union members working in the rail industry are dissatisfied with the present condition of the industry.

"The accomplishment of shutting down the nation's railroads by a relatively small organization with the help of our fellow railroad workers was something the railroads were confident could not be done," Chamberlain told the General Chairmen.

He continued, "We are extremely proud of the manner in which our members conducted themselves and the determination of Signalmen to obtain a just settlement is now a matter of public record."

The assembled General Chairmen were informed that our negotiating committee fervently hoped that when they resumed negotiations across the table with the Carriers' Committee on June 8, honest, sincere collective bargaining on all issues would take place.

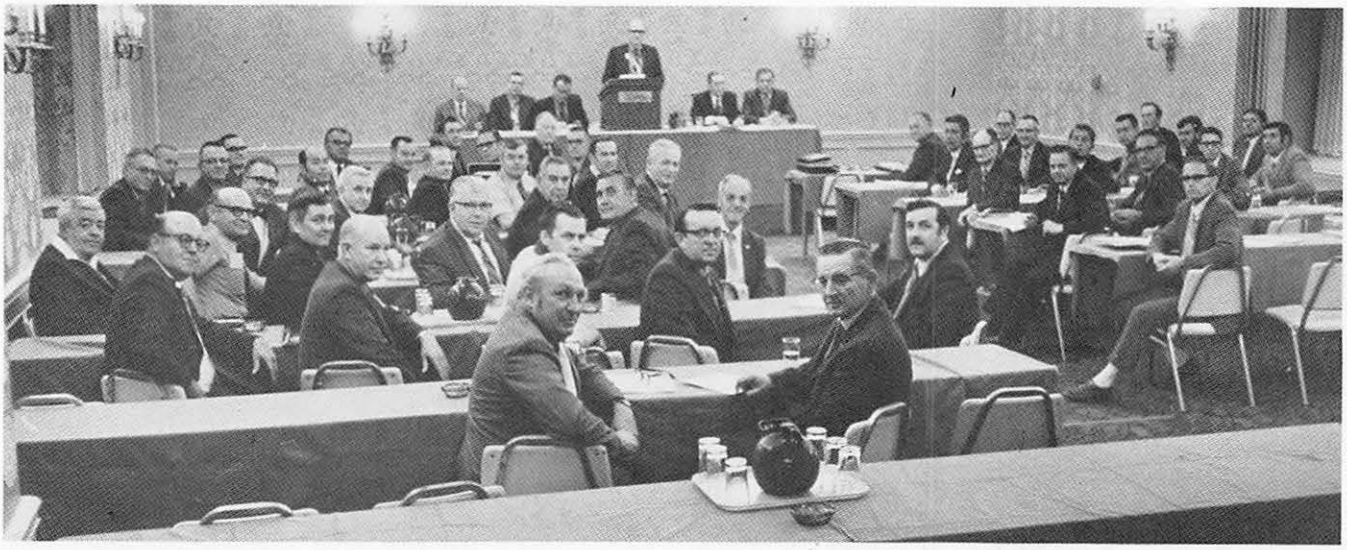
Speaking of the resolution provisions that Congress passed on May 18 ending our two-day strike, President Chamberlain noted the interim pay increases of 5 percent on January 1, 1970, the 30 cents per hour for leaders and mechanics and 18 cents per hour for assistants on November 1, 1970, were less than increases granted other railroad employes in other settlements.

He called the General Chairmen's attention to editorials carried by our nation's newspapers and their misreport of the increase as 13½ percent, when in fact it only amounted to 12.8 percent for mechanics and classes above and 10.5 percent for assistants and helpers. President Chamberlain said if this increase was spread over all of 1970 it would come out to only 6.3 percent for mechanics and less than 6 percent for assistants and helpers. These figures help explain the Brotherhood's determination to fight for a larger increase.

Legislation calling for the carriers to negotiate an agreement to provide substantially improved living quarters for signal employes on travel status was significant, he said. The law says Congress does not intend to endorse the continued furnishing of substandard quarters to signal employes and an agreement must be negotiated as soon as possible.

Discussing the news media of our country, primarily newspaper editorials that gave their usual anti-labor blast against rail unions, which on May 17 and 18 was against the Signalmen, President Chamberlain commented on the editorials using such words as "tragedy," "outrageous," "economic blackmail," "unbridled arrogance," and "incredible," in describing the Signalmen's strike and noted not one newspaper suggested that the Carriers' Chairman might have "given" a little in these negotiations.

President Chamberlain told the General Chairmen how Congress, while acting on legislation to end the Signalmen's strike, discussed the need for permanent legislation



General Chairmen from all over the United States met in Chicago, Illinois on June 4 to report on the May 17 and 18 strike, receive information on Congressional action and plan for future negotiations.

that would make the Railway Labor Act a useful tool for effective bargaining.

Of course, Chamberlain noted, the proposed legislation covers every group's thoughts and interest, from President Nixon's Emergency Transportation Act, the Railroad-Airlines proposal of a No-Strike bill, to the RLEA's proposal for selective strikes.

Chamberlain said hearings would soon begin in both the Senate's Labor and Public Welfare Committee and the House Interstate and Foreign Commerce Committee. He urged all the General Chairmen present to attend local lodge meetings and discuss all proposed legislation.

He also suggested that all the members and their families write their Senators and Congressmen requesting support for legislation that will allow selective strikes.

The resolution passed by the Congress and signed into law by President Nixon on May 18 extended until October 1, 1971 the period during which, under the Railway Labor Act, no strike or lockout may occur, President Chamberlain told them.

President Chamberlain warned all present that in the event the Carriers' Committee fail to make some effort to negotiate a settlement, the Signalmen would be forced to use their economic strength again after October 1.

During this meeting he also discussed the Occupational Safety and Health Act of 1970 and told the General Chairmen this important piece of legislation would be reproduced in the next issue of The Signalman's Journal. He suggested that every officer and member become acquainted with the law and its effect on employes and union members.

Before adjourning, the General Chairmen questioned President Chamberlain and other Grand Lodge Officers regarding future negotiations and pending legislation and expressed their opinions. They then voted unanimous support of the Signalmen's Negotiating Committee and authorized the committee to do whatever it takes to effectuate an acceptable agreement.

At Journal press time, President Chamberlain reported that negotiations on June 8 failed to provide any movement and the next negotiating session was scheduled for later in July in Washington, D.C.

Who Wants To Strike

SOME PEOPLE GET THE IDEA FROM HEADLINES AND NEWScasts that union members are just aching to go on strike all of the time. These people forget that good news is no news.

Next time you see men and women walking a picket line, just imagine how frustrated you would have to feel before you would voluntarily give up your pay check, and before you would be willing to tramp around in rain, heat, snow or cold.

Or, if you are one of those people who think that the strikers have been "agitated" to go on strike by some "union leader," just think of the way in which the union treasury—which is really other union members' collective savings—is going to be tapped to provide welfare and other assistance to those on strike.

If the strike takes place in some "essential" service and inconveniences you, don't forget that the strikers and their families use those essential services too. Thev suffer the same inconvenience plus the extra disadvantages.

The truth is that employes have to be very, very frustrated and quite convinced that their employer isn't treating them fairly before they will voluntarily give up their pay in the hope that, by depriving their employer of some of his earnings, they may get him to take them more seriously. And the truth is that experienced union leaders do everything possible to avoid, rather than encourage, work stoppages.

Our system of free collective bargaining, which asks employers and employes to work out fair wages and working conditions themselves, has protected us from the civil disorders which take place where people can't bargain collectively. It is giving more and more people a fair share of our increasing production of goods and services.

The only alternative is complete control of everything and everybody by some all-powerful dictator.

The occasional picket line shows that our collective bargaining system isn't perfect. But like democracy—which isn't perfect either—no one has worked out a better system. —Ontario Federation of Labor.

The Signalman's Journal Needs Your Help, Please

MORE THAN EVER BEFORE, MEMBERS OF OUR BROTHERhood are writing or reporting at Local Lodge meetings of the late delivery of The Signalman's Journal.

We want to know whether the delivery is nationwide or whether the delayed delivery occurs only in certain post offices or only with some mailmen. For this we need your help. Your response should indicate where the blame lies.

Please tear out this coupon and fill out the day and date on which this issue of the Journal arrived at your house. Check the boxes if they apply to your experience. That plus your mailing label will give us all the information we need. We will then take it up with the Postal authorities. We want you to get The Signalman's Journal on time.

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Office of the

SECRETARY-TREASURER

The Residual Guarantee

AN OUTSTANDING FEATURE of the railroad retirement program, not available under social security, is the residual lump-sum benefit. Through the availability of this benefit, every railroad employe is guaranteed that he or his family will receive in total benefits at least as much as the employe himself paid in railroad retirement taxes.

The following questions and answers will help railroaders to understand the rights of their survivors to this benefit.

Under what conditions is a residual payment made?

A residual payment can be made after a railroad employe's death when all other benefits based on his earnings have stopped and none are potentially payable in the future. However, a widow, widower or parent who is potentially entitled to a future benefit may elect to waive rights to that benefit in order to receive the residual payment immediately. The payment is reduced by the amount of any regular railroad retirement benefits or social security benefits based on railroad retirement earnings the employe received and by the amount of survivor benefits paid by either the Railroad Retirement Board or Social Security Administration.

How much can this residual benefit amount to?

Currently, the average residual payment is about $4,000; however, individual payments can range from as little as a few dollars to as much as $11,000, the present maximum.

Can a residual payment ever be made while the employe is living?

No. It is a survivor benefit payable only after eligibility for other benefits based on the employe's railroad earnings has ended and no potential future eligibility exists for any person.

I want my wife to receive any residual payment which may be due at my death. Is there anything I have to do?

No, unless you have designated someone else after June 23, 1948, your wife will be the beneficiary as long as she continued living with you. When no designation of beneficiary form is filed, any payment due is made to the widow (or widower) if she was living with the employe when he died, or to children, grandchildren, parents, brothers and sisters, or the employe's estate, in that order. If your wife does not survive you, or if you are unmarried, rights to the residual pass to the next survivor in the above order of precedence. If you have designated someone other than your wife since June 1948 you should write the Board and cancel that designation if you want your wife to receive the residual (see question 6).

What if I don't want the residual benefit to be paid in the way the law provides?

Then you should designate a particular person or persons to receive any residual due by filing a properly completed designation of beneficiary form (Form AA-11a) with the Board. If you name more than one person, you must indicate the exact share that you want each to receive. You can also name a secondary group of beneficiaries in the event the persons in the first group do not survive you.

Because of a 1948 amendment to the Railroad Retirement Act, designation of beneficiary forms filed prior to June 23, 1948 are invalid. If you have filed a form before that date and do not wish the residual to be handled as set out in question 4, you should file a new designation form.

Forms for designating beneficiaries can be obtained at any Board office or by writing to the Director of Retirement Claims, 844 North Rush Street, Chicago, Illinois 60611. Any Board representative will be glad to assist you in completing the form.

I remarried last month. Ten years ago I named my first wife as a beneficiary for the residual payment. Does my present wife now automatically become my beneficiary?

No. Your first wife will still be your beneficiary unless your designation is canceled or changed. But, this has no effect on your present wife's rights to a widow's annuity. If you do not change your designation, your first wife cannot receive any residual that may be due until after your present wife's rights to an annuity end.

It is important to remember that once a formal beneficiary designation is filed with the Board, it will not be changed unless you either cancel it or file a new designation. This is true even if your marital status changes.

If you file a designation of beneficiary form, the Board will send you a duplicate copy for your records. It is a good idea to keep this copy in a safe place so that you can review it from time to time to see if the designation should be canceled or changed.

I am a widow with a 15-year-old daughter. Can I elect the residual payment now?

No, because your daughter is eligible for an annuity. However, when your daughter's eligibility ends at age 22, or earlier if she marries, the residual may then be elected unless by that time the benefits paid exceed the residual amount.

I am a 48-year-old widow and have no children. Can I receive any residual payment due, now, instead of waiting to receive a widow's annuity when I become 60 years of age?

Yes, if you were living with your husband at the time of his death and if someone else was not named beneficiary, you can elect to waive your rights to the future annuity. If you don't do this now, you can

also make this election at any time before you reach age 60 as long as you do not become entitled to a disabled widow's annuity earlier between ages 50 and 59.

My husband worked in employment covered by both railroad retirement and social security before he died. I know that in cases like mine, widows' annuities are normally based on combined railroad retirement and social security earnings and paid by only one of the two agencies, but I was wondering if I could elect to receive a residual payment and still keep my rights to a benefit based on my husband's social security earnings.

Yes. Unless you are immediately eligible for monthly benefits, you can sign a waiver of future rights based on your husband's railroad earnings and receive a residual payment. You will then still retain any rights you may have to a social security widow's benefit based on your husband's *social security credits alone.*

I am the widow of a railroad employe and have recently remarried. Can I still claim any residual payment due?

Yes, any residual would be payable to you as long as you were living with your husband at the time of his death, unless annuities are still payable to other survivors, or unless someone else was designated as beneficiary.

I won't be eligible for my widow's annuity until 1980. How can I find out whether I am better off waiting instead of electing a residual payment in the meantime?

The best thing to do is visit your nearest Board office for help in making a proper decision in your own case.

The most important facts to be taken into account are as follows:

- Your present age, or the state of your health in relation to the number of years you must wait for your annuity to begin.
- The amount of the residual you would receive compared to the amount of your future annuity.
- If your husband was also insured on the basis of his social security credits alone, the amount of the widow's benefit you could receive on those credits if you elected to receive the residual payment from the Board.
- The amount of the benefit, if any, payable to you based on your own earnings or earnings of any individual other than your deceased husband's.

RRB Releases 1970 Statements of Service (Form BA-6)

THE RAILROAD RETIREment Board recently completed the preparation of the annual statements of railroad service, "Certificate of Service Months and Compensation," Form BA-6, and mailed them to railroads and other covered employers for distribution to employes. These annual statements serve as convenient records because they show an employe's railroad service and compensation in 1970, as well as his cumulative railroad credits after 1936. The statements are also of value to employes when they apply for benefits with the Board.

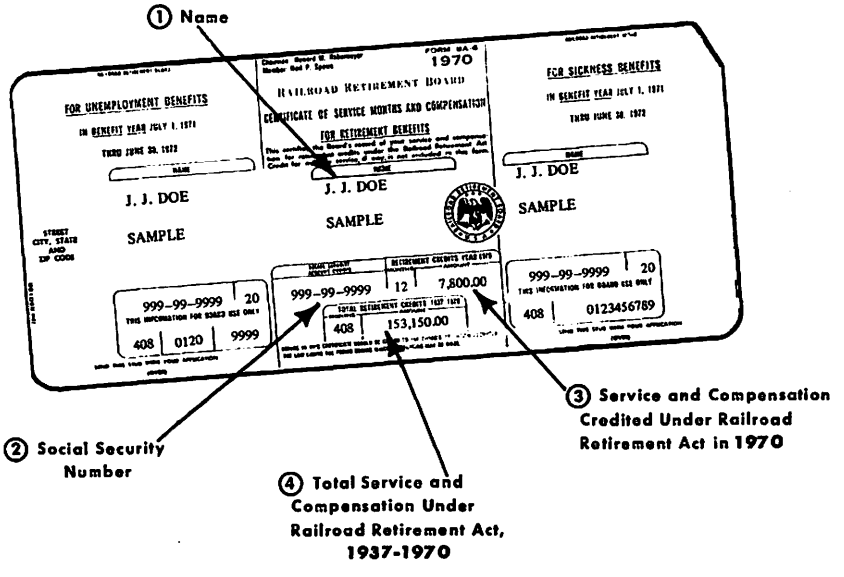
Some 700,000 BA-6 forms will be distributed. They will go primarily to employes who qualify by their 1970 employment and compensation for unemployment and sickness benefits in the benefit year beginning July 1, 1971. BA-6 forms will also go to employes who had service in each month in 1970 even if their compensation did not qualify them for unemployment and sickness benefits. Employes who had service with a local lodge or division of a national railway labor organization will also receive a BA-6 form.

As shown in the illustration, the BA-6 form has detachable sections at each end. The section on the right side should be submitted when the employe applies for sickness benefits, and the one on the left side should be used when he applies for unemployment benefits. The reverse side of the sections also explain the best way to apply for these benefits. The use of these sections helps prevent mistakes in processing claims due to erroneous social security account numbers. Most delays in the payment of these benefits occur when an employe enters the wrong account number on his application.

After receiving his BA-6 form, each employe should check to see whether his own record of service and creditable compensation agrees with the Board's figures. The important figures that should be checked are indicated on the illustration of the form. If the employe decides that the information shown is not correct, he should report this fact to the Board as soon as possible. In checking the spelling of the name, it should be kept in mind that the form contains only the first 10 letters of the last name.

Most employes should have received their BA-6 forms by June 1. If an employe did not receive a form and believes he is entitled to one, he should write to the Board. He should also write to the Board if he feels his BA-6 form contains an error. These letters should be addressed to the DIRECTOR OF DATA PROCESSING AND ACCOUNTS, RAILROAD RETIREMENT BOARD, 844 RUSH STREET, CHICAGO, ILLINOIS 60611. The employe should include his social security account number in the letter, otherwise no corrective action can be taken.

What Employees Should Check on Form BA-6



YOUR WASHINGTON Reporter

By R. E. Porter

A BATTLE IS SHAPING UP in earnest on Capitol Hill over legislation to deal with labor-management disputes on the railroads. The battle warmed up after the recent two-day strike of the Railroad Signalmen on the nation's rail carriers.

Congress at the time passed a "one shot" bill, as it did last December when a strike of four rail unions occurred—the Railway & Airline Clerks, Maintenance of Way Employes, United Transportation Union, and Dining Car Employes.

Under the latest bill, the Signalmen's strike was ended, at least until October 1, and the first installment of an Emergency Board's recommendations for settlement of the dispute was put into effect. This provided wage increases of less than 13 percent in two laps for 1970.

Meantime, the dispute precipitated a round of hearings by Senate and House committees on varying and rival proposals for long-range legislation dealing with strife on the rails.

Foremost among these was the Nixon Administration measure which would give the government a so-called "arsenal" of weapons with which to tackle "emergency" disputes, including a disguised form of compulsory arbitration, called "final offer" selection.

The Nixon bill contains many other restrictive features, applying to all forms of transportation, and it would virtually eliminate the Railway Labor Act, shifting the jurisdiction to the Taft-Hartley Act.

Many other anti-labor proposals are in the legislative hopper, nearly all of them embracing one form of compulsion or another.

On the other hand, railway unions and the AFL-CIO are united behind a voluntary measure sponsored in the House by Rep. Harley Staggers (D., W. Va.), chairman of the Interstate Commerce Committee, and by other congressmen—and in the Senate by Sen. Harrison Williams (D., N.J.), chairman of the Senate Labor Committee, with other co-sponsors.

This measure would legalize "selective" strikes on the railroads—that is, strikes on a limited number of railroads, in order to spur a voluntary settlement on a nationwide basis. It would preserve collective bargaining, including the right to strike, while averting the impact that a national strike would have on the public.

* * *

By contrast, the Association of American Railroads and the Air Transport Association, along with the National Railway Labor Conference (the carriers' negotiating arm), launched a joint campaign for their own version of new restrictive legislation, going beyond the Nixon plan in some respects.

Among other things, this version would in direct terms add "final and binding arbitration" to the government's "arsenal" of weapons, in addition to the disguised form of arbitration proposed by the Administration.

Also, it would apply to "any dispute" on the railroads or airlines, not only a national "emergency" dispute. Thus, it would in effect prohibit strikes and invoke compulsion in a dispute involving just a single carrier—all this on the claim that even single local disputes "are part of a tightly woven fabric of collective bargaining in transportation" and have a wide public impact.

Moreover, the AAR and the Air Transportation Association are pressing for a variety of other legislative changes to weaken unions, among them these:

- A "no union" square would have to be included on all representation election ballots.
- The National Mediation Board would be given authority to make binding decisions in "jurisdictional disputes."
- Supervisory employes and subordinate officials would be barred from organizing, thus wiping out present unions of these employes.
- "Secondary boycotts" would be prohibited in the railroad and airline industries. Thus, unions would be forbidden from trying to induce other firms to stop handling goods of "scab" or strikebound carriers.
- The National Railroad Adjustment Board, a sort of "supreme court" for resolving grievances and related "minor" disputes, would be abolished.
- Agreements reached by negotiators for unions and management would be final, thus eliminating ratification by union members or general chairmen.
- Payment of unemployment benefits would be barred during strikes —either to strikers, or those who refuse to cross picket lines.

These are among the "arsenal" of weapons wanted by the railroads and airlines to undermine unions and strengthen management at the bargaining table.

The carriers have launched a widespread propaganda campaign for such legislation—and, as expected, they have secured a barrage of favorable editorials in the daily press, clamoring for legislative crackdowns on the unions.

Railway unions and the whole labor movement are countering with all the means at their disposal to save voluntary collective bargaining and to win the right by law to stage selective strikes.

They contend that only if workers remain free can such vital citadel of free enterprise as transportation remain free. They warn that if transportation labor is to be stripped of its freedoms then the transportation industry may well slip from free enterprise into nationalization.

Railroads have been trying hard to make a case against nationalization, and in the process they have undercut their own case about their employes being "featherbedders." They have shown that these employes are really the most productive in the world.

That's all spelled out in a recent tract issued by the Association of American Railroads on the pains

and perils of public ownership. This tract starts out by citing a survey which, the AAR said, "revealed an unbroken pattern of heavy deficits on the nationalized systems" which exist in most countries.

This survey further showed, according to the AAR, that "the only profitable operations were the only privately-owned major railroads of the world—those of the United States, on an industry-wide basis, and the neighboring Canadian Pacific."

The AAR went on to list heavy annual deficits in nationalized systems—from $41 million in the Netherlands to $900 million for the French National Railways. Why such huge deficits? The AAR endeavored to fix part of the blame on less efficient labor in the nationalized systems.

"Using employe productivity as a yardstick of operating efficiency, American Railroads and the Canadian Pacific have a clear edge over their nationalized counterparts," the AAR boasted.

"U.S. railroads have 2.8 employes per mile of track compared, for example, to 25.5 employes per mile for British Railways. And the American lines handle a million traffic units—ton-miles or passenger-miles—for each 0.77 workers, while the British Railways require 6.3 workers to do a similar job."

The AAR tabulation showed even more employes per mile of track in Japan—36. Among other publicly-owned systems, the Canadian National is listed as having 3.5 empoyes per mile; Netherlands Railways, 13.3; French National Railways, 13.5; Italian State Railways, 18.7, and German Federal Railways, 21.6.

As for employes per million traffic units, put at 0.77 in the U.S., the figures for the same nationalized systems are: Canadian National, 1.59; Japanese National, 1.73; Netherlands, 2.28; French, 3.69; Italian 3.98; German, 4.92, and British, 6.3, as mentioned above.

Further, the AAR declared that labor costs in the nationalized systems "take a much higher percentage of operating revenues than in the United States, even though American rail workers are far better paid."

An AAR calculation covering 1968, the last year for which full comparative figures were available, placed the average earnings of a U.S. rail worker at $8,654, compared to these salaries on the nationalized systems used in the comparison: Japanese, $2,073; British, $2,554; Italian, $2,989; German, $3,216; French, $3,271; Netherlands, $3,357, and the Canadian National $5,645.

Moreover, despite the far higher rail wages in the U.S., the average charge for hauling a ton of freight one mile is "considerably lower" on American railroads than on most nationalized lines.

Summing up, the AAR's own report demonstrates that American railmen, far from being the wasteful "featherbedders" pictured in a lot of propaganda, are in fact the most efficient to be found anywhere.

* * *

Amtrak, the semi-public corporation which, nominally at least, runs most of the nation's remaining passenger lines, continues to get a mixed billing. Some observers scent an improvement, others are dubious.

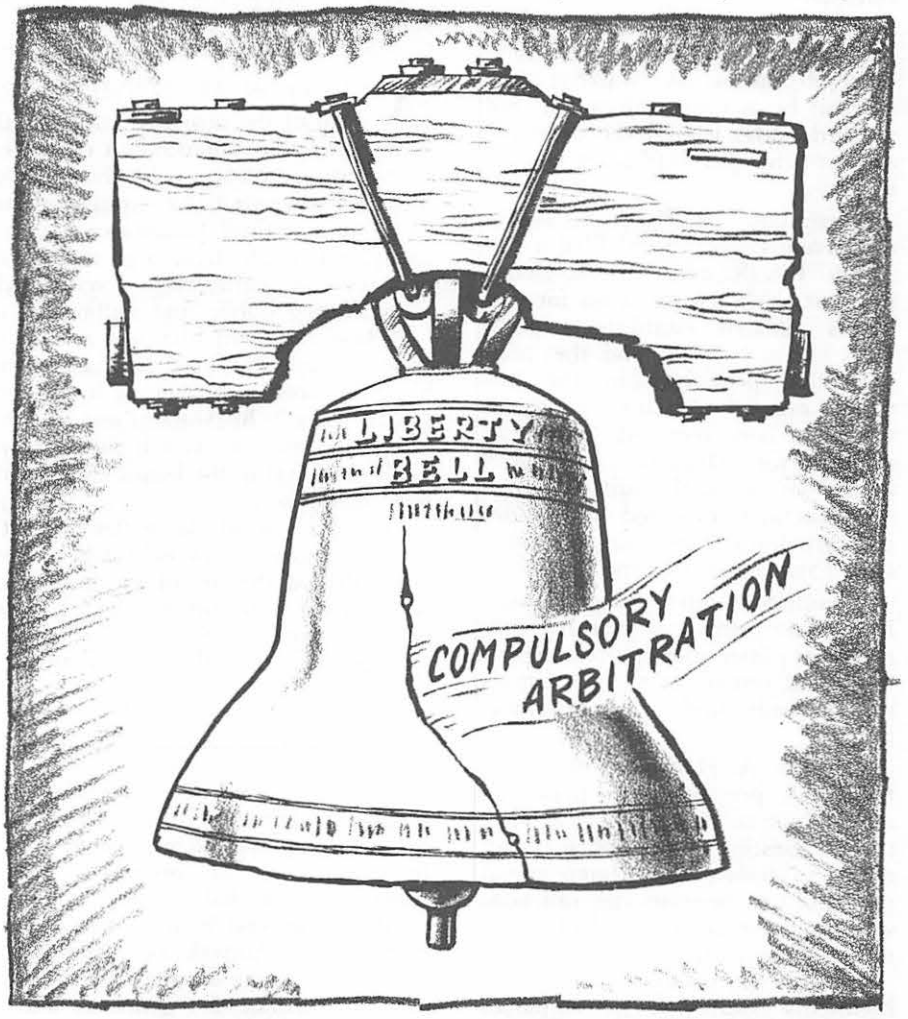
Critical notes have continued to be heard on Capitol Hill. For example, Sen. Vance Hartke (D., Ind.), chairman of the Senate's Surface Transportation subcommittee, asserted that he can detect little improvement in service. "Amtrak is going to show me they have more than a new sign and some new posters," Hartke said.

Sen. Robert Taft (D., Ohio) deplored "lack of promotion, publicity and advertising" by Amtrak, especially on its New York-Cleveland-Chicago run. "Unfortunately, Amtrak to date has amounted to little more than reduced service and a new trademark," he said. "We must have a better performance."

Taft and other senators, however, stressed the need to provide Amtrak with more federal funds above the meager $40 million made available under the legislation establishing the quasi-public passenger corporation.

On the other hand, Amtrak contended it's trying to do better with the limited equipment it has available. For one thing, it cited a check-up of service being constantly made by 25 full field agents who travel all over the nation on Amtrak trains.

They send in reports daily on



A Threatened Break in the Bell on Independence Day.

what they find, and many of these tell bluntly of bad conditions on numerous cars, poor on-time performance, unsatisfactory connecting schedules, and other deficiencies. These reports in most cases include recommendations for improvements and new features. Amtrak spokesmen claim these reports are read and evaluated and that steps are taken to carry out some of the recommendations.

* * *

One of the "fallouts" from the Amtrak takeover was the elimination by participating railroads of long-established pass privileges held by employes for themselves and their dependents, as well as by retirees. This has produced a major outcry all over the nation—and battles by the railway unions to correct the situation.

One of the railroads where the issue came to a head was the Penn Central, which had more passes out than any other carrier in America —a total of 400,000, held not only by its 90,000 employes, but by a vast number of public officials and others.

Shopcraft employes threatened a strike last June 1 over the nullification of passes. A walkout was blocked by a court injunction, but the order also barred the dropping of pass privileges until after a hearing.

Meantime, the Electrical Workers on the Penn Central filed a suit against the PC and Amtrak, charging that the slash in passes for employes violated established conditions of employment and the labor protective provisions in the law which created Amtrak. However, the court later removed Amtrak as a defendant. Meantime, other rail unions joined in the suit and took other actions designed to restore pass privileges. The outlook is for a long, hard battle over the pass issue.

Meantime, Amtrak sought to defend its own policy of granting only half-rate passes to employes, dependents and retirees of the participating railroads, under certain conditions.

Kenneth A. Housman, new Amtrak vice president for personnel and administration, asserted that the corporation's pass policy is "an effort to follow the Congressional mandate" to operate the rail passenger service in a "prudent, business-like manner."

He said the policy includes these highlights: Half fare for employes and dependents, also retirees and their dependents over the entire Amtrak system; free transportation for rail employes "performing duties necessary for operation" of Amtrak trains; half fares for rail employes engaged in work not connected with Amtrak operations.

Housman claimed that the Amtrak pass policy is "generous and fair." He added that it "does not preclude any railroad" from continuing any obligations it may have to provide passes "or from extending to any of its employes or anyone else any transportation privileges the railroad believes are important to it to provide." However, this must be done, Housman said, at the carrier's expense, not Amtrak's.

Railroad Retirement Increase Passed In Both Houses

THE LONG-AWAITED 10 PERCENT INCREASE IN RAILROAD Retirement annuities moved a step closer when on Thursday, June 24, 1971, the House of Representatives adopted the Senate passed version of the bill H.R. 6444 Railroad Retirement by by a voice vote.

The bill is now in the hands of President Nixon for his signature and contains the following provisions:

1. Provides a temporary 10 percent increase in railroad retirement benefits retroactive to January 1, 1971;
2. Extends by one year, to June 30, 1972, the date by which the Commission must submit its report; and,
3. Terminates the proposed 10 percent increase and the present 15 percent increase on June 30, 1973, one year after the Commission reports.

Earlier the House of Representatives approved a bill but because of a difference in the language pertaining to the extension of the term of the Commission studying the entire Railroad Retirement structure, the legislation was delayed until the House accepted the Senate-approved version of the differences.

The House bill extended the life of the Commission for an additional six months, while the Senate version extends it for a full year.

At press time only President Nixon's signature was needed to enact this important legislation into law.

Signalmen Need Raise

The following letter to the editor appeared in the Albuquerque Morning Journal on May 20. The letter was written by a retired engineer, C. M. Graham, a member of U.T.U. Local 1789.

"AN EDITORIAL IN THE JOURNAL (MAY 13) WAS VERY CRITical of the proposed strike by the Brotherhood of Railway Signalmen, saying that that organization composed only 2 per cent of the total number of railway employees and that this small organization should not prevent other railway employees from working by establishing a picket line.

"I am a retired locomotive engineer. During my working years I made many, many safe trips over my division, feeling secure on the job because of a well maintained signal system which protected me, my fellow workers, the traveling public and millions of dollars worth of commodities.

"These signal maintainers are on call 24 hours a day, 365 days a year. When trouble develops the maintainer goes out, come hell or high water, on his little motor car to work in all sorts of weather to restore service to the system. Mostly his work is out in the country away from any other person, often all alone, up on a high signal mast or down underground in a battery vault or checking the bonds between rail joints. He is a highly skilled worker, hard to replace.

"I wonder what the writer of that editorial would do if he were one of these dedicated workers trying to get the best possible for his family and being denied the use of the only weapon left him after months of fruitless negotiations with his employers. Would he meekly accept an insufficient offer and continue to work for less than his contemporaries and see his family lacking some of the refinements his neighbors enjoy?

C. M. Graham
Sandia Park"

Determine Your Rights Under FELA

Members who are injured on the job and the dependents of those members who have been killed or have died as the result of such injuries should by all means ascertain their rights and benefits under the Federal Employers' Liability Act before attempting any settlement with the railroad.

Below is a list of attorneys who, on the basis of information made available to us, are competent to give full information and assistance to those in need of it.

This list is compiled and maintained on the strength of information furnished us by both attorneys and members. The accuracy of the list that we will publish from time to time depends entirely on the information furnished us. Therefore, everyone concerned is urged to keep us informed regarding cases handled, nature of the case, terms of the settlement, commendations, criticisms, etc.

THIS INFORMATION SHOULD BE FORWARDED TO PRESIDENT C. J. CHAMBERLAIN AT GRAND LODGE HEADQUARTERS.

Atlanta, Ga. 30303. Thomas J. Lewis, Jr., Suite 400, The Equitable Building
Tel. (404) 522-4229

Baltimore, Md. 21202. Savage, Jones, Tingle & Schwartzman, 10 Light St., 30th Floor, Maryland National Bank Bldg.
Tel. (301) 685-2713

Bergenfield, N. J. 07621. Charles J. Tyne, 104 N. Washington Ave.
Tel. (201) 384-9433

Birmingham, Ala. 35203. Rives, Peterson, Pettus & Conway, 17th Floor, Twenty-one Twenty-one Bldg.
Tel. (205) 328-8141

Boston, Mass. 02108. Francis H. Farrell, Suite 701, Old South Bldg., 294 Washington Street
Tel. (617) 542-3270

Chicago, Ill. 60602. Henslee-Monek - Henslee, 120 Madison Bldg.
Tel. (312) 782-5925

Cleveland, Ohio 44114. Howard M. Metzenbaum, 700 Union Commerce Bldg.
Tel. (216) 771-4515

Denver, Colo. 80202. Alex Stephen Keller, 316 Symes Bldg.
Tel. (303) 255-3603

Fort Worth, Tex. 76102. Winfred Hooper, Jr. Hooper, Steves & Kerry 200 Fort Worth Club Bldg.
Tel. (817) 335-9377

Fort Worth, Tex. 76102. George L. Schmidt, 810 Sinclair Bldg.
Tel. (817) 335-9782

Houston, Tex. 77004. George L. Schmidt, 4714 Fannin
Tel. (713) 526-1564

Houston, Texas 77002. Norman R. Jones, 1010 Houston First Savings Bldg.
Tel. (713) 225-0663

Kansas City, Mo. 64105. Norman R. Jones, Suite 1420, Commerce Tower, 911 Main Street
Tel. (816) 421-5411

Kansas City, Kans. 66101. Ratner, Mattox, Ratner, Ratner & Barnes, Suite 224, One Gateway Center Office Bldg., 5th at State Street
Tel. (913) 321-2619

Los Angeles, Calif. 90012. Clifton Hildebrand, 205 S. Broadway, Suite 400
Tel. (213) 629-2214

Los Angeles, Calif. 90005. George E. Bodle, 3540 Wilshire Boulevard
Tel. (213) 385-3601

Miami, Fla. 33130. Hastings, Elias & Goldman, 315 Biscayne Bldg., 19 West Flagler St.
Tel. (305) 377-9481

Minneapolis, Minn. 55402. Eugene Rerat, 1100 First National Bank Bldg.
Tel. (612) 339-9231

Oakland, Calif. 94612. Clifton Hildebrand, 1212 Broadway
Tel. (415) 451-6732

Pittsburgh, Pa. 15219. Evans, Ivory & Evans, 711 Frick Bldg.
Tel. (412) 471-3740

Salt Lake City, Utah 84101. Wayne L. Black, 530 Judge Bldg.
Tel. (801) 364-3566

San Antonio, Tex. 78205. George L. Schmidt, 1515 NBC Bldg.
Tel. (512) 227-7565

Seattle, Washington 98104 Piehler & Allerdice 924 Arctic Bldg.
Tel. (206) 624-4700

Syracuse, N.Y. 13202. J. Murray Dunn, 707 State Tower Bldg.
Tel. (315) 422-0303

Tucson, Ariz. 85719. John P. Somers, 2016 East Broadway
Tel. (602) 623-6111

Vicksburg, Miss. 39180. James B. Ramsey, First National Bank Bldg.
Tel. (601) 636-5561

Wichita, Kans. 67202. Ratner, Mattox, Ratner, Ratner & Barnes, 444 No. Market, P. O. Box 306
Tel. (316) 262-6423

Wichita, Kans. 67202. John C. Frank, 615 Union National Bldg.
Tel. (316) 264-0346

The Occupational Safety and Health Act of 1970

THE OCCUPATIONAL SAFETY and Health Act of 1970, which became law on April 28, 1971 called for the establishment of the Occupational Safety and Health Administration in the Department of Labor.

George C. Guenther has been confirmed by the Senate to the new post of Assistant Secretary of Labor for Occupational Safety and Health. Mr. Guenther had been Director of the Bureau of Labor Standards.

President Nixon, when signing the Act into law on December 29, 1970, called it "one of the most important pieces of legislation . . . ever passed by the Congress of the United States."

An estimated 57 million employes in about 4.1 million places of employment will be covered under the Act.

The formation of the new agency has been characterized as an important phase on improving the environment for all Americans.

"A safe and healthy workplace is as important an environment as any other for Americans," Secretary Hodgson said. "Aside from their homes, this is primarily where they spend their time."

A voluminous initial set of standards was issued by the Secretary of Labor on May 29.

A special training school for Compliance Officers was opened in Washington, D.C. and a new class is being started each week with a course to prepare Compliance Officers for the duties of enforcing the new law.

The Act imposes two basic duties upon an employer. He is required:

- To "furnish to each of his employes, employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employes."
- To "comply with occupational safety and health standards promulgated under the Act."

Other duties imposed on employers by the Act are:

They must permit Labor Department investigators to enter their establishments "without delay and at reasonable times."

Record-keeping requirements imposed by the Act require the employer to make, keep and preserve such records regarding his activities relating to the Act as the Secretary of Labor, in cooperation with the Secretary of Health, Education and Welfare, may prescribe by regulation as necessary or appropriate for the enforcement of the Act or for development of information regarding the causes and prevention of occupational accidents and illnesses.

The investigative and record-keeping provisions do not end with this general provision. Other obligations that may be imposed on employers include:

- The conduct of periodic inspections and the posting of notices to keep employes informed of their rights and obligations under the Act.
- The maintenance of accurate records of and the preparation of periodic reports on work-related deaths, injuries, and illnesses other than minor injuries requiring only first-aid treatment and that do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.
- The maintenance of accurate records of employes' exposures to potentially toxic materials or harmful physical agents that are required to be monitored under the temporary standards provisions of Section 6 of the Act.

The Act does specify that any information obtained by the Secretary of Labor, the Secretary of Health, Education, and Welfare, or a state agency under the Act shall be obtained with "a minimum burden upon employers." If an investigation is made, the employer may have a representative accompany the Government inspector.

The basic objective of the law is to protect employes against safety and health hazards. But it also imposes a duty on employes. Section 5 (b) states:

"Each employe shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct."

Apart from Section 5 (b), the Act's provisions relating to employes are concerned primarily with rights. As a counterpart to the duty imposed on an employer, an employe has a right to a place of employment that is free from recognized hazards that are causing or are likely to cause death or serious physical harm. To implement this right, the Act gives an employe or his representative the right to request an inspection of an establishment if he believes that a violation of a safety or health standard exists or that an imminent danger exists.

If an inspection is made, an employe or a representative of employes must be given the opportunity to accompany the Labor Department investigator for the purpose of aiding the inspection. Moreover, if the Labor Department determines that there are no reasonable grounds to believe that a violation or danger exists, it is required to notify the employe or his representative in writing.

A provision similar to Section 8 (a) (4) of the National Labor Relations Act and Section 15 (a) (3) of the Fair Labor Standards Act protects an employe against discrimination for filing a complaint, instituting a proceeding, or testifying in a proceeding under the Act. Federal district courts have jurisdiction over suits involving alleged violations of this provision and may award appropriate relief to the employe, including reinstatement in his job with back pay.

What the Law Means To Labor Unions

Labor unions are affected by the Act in two ways. First, they will have the same rights and obligations of other employers in their role as employers. Second, they will have certain rights as representatives of employes. These rights include the following:

- The right to file written objections and to request a public hearing on a proposed safety or health standard promulgated by the Secretary of Labor.

LEGAL VIEWS

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 PUBLIC LAW 91-596

The Occupational Safety and Health Act was approved by the President on December 29, 1970. It will become effective on April 28, 1971.

In this Act, which was strongly supported by our Brotherhood, the Congress has proclaimed a purpose "to assure so far as possible every working man and woman in the Nation safe and healthful working conditions."

The Act will be administered by the Secretary of Labor. Occupational Safety and Health Standards may be formulated to cover every industry and every work location. Many standards have already been accepted in various industries and likely these will be adopted by the Secretary. Others will be formulated as rapidly as necessary research and availability of staff will permit.

Former Secretary of Labor Shultz testifying in support of the Bill stated that more than 14,500 workers are killed annually in industrial accidents; more than 2.2 million are disabled, resulting in the loss of 250 million man days of work — many times more than are lost through strikes. The economic impact was staggering: $1.5 billion in lost wages and a resultant loss of over $8 billion in the Gross National Product. Mr. Shultz also stated that the number of disabling injuries per million man hours had increased by 20% since 1958.

This Act, because of its importance to all employes, and to provide ready reference for our officers is set forth below:

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

PUBLIC LAW 91-596; 84 STAT. 1590

[S. 2193]

An act to assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

This Act may be cited as the "Occupational Safety and Health Act of 1970".

CONGRESSIONAL FINDINGS AND PURPOSES

Sec. 2(a) The Congress finds that personal injuries and illnesses arising out of work situations impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of lost production, wage loss, medical expenses, and disability compensation payments.

(b) The Congress declares it to be its purpose and policy, through the exercise of its powers to regulate commerce among the several States and with foreign nations and to provide for the general welfare, to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources—

(1) by encouraging employers and employees in their efforts to reduce the number of occupational safety and health hazards at their places of employment, and to stimulate employers and employees to institute new and to perfect existing programs for providing safe and healthful working conditions;

(2) by providing that employers and employees have separate but dependent responsibilities and rights with respect to achieving safe and healthful working conditions;

(3) by authorizing the Secretary of Labor to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce, and by creating an Occupational Safety and Health Review Commission for carrying out adjudicatory functions under the Act;

(4) by building upon advances already made through employer and employee initiative for providing safe and healthful working conditions;

(5) by providing for research in the field of occupational safety and health, including the psychological factors involved, and by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems;

(6) by exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions, and conducting other research relating to health problems, in recognition of the fact that occupational health standards present problems often different from those involved in occupational safety;

(7) by providing medical criteria which will assure insofar as practicable that no employee will suffer diminished health, functional capacity, or life expectancy as a result of his work experience;

(8) by providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health;

(9) by providing for the development and promulgation of occupational safety and health standards;

(10) by providing an effective enforcement program which shall include a prohibition against giving advance notice of any inspection and sanctions for any individual violating this prohibition;

(11) by encouraging the States to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws by providing grants to the States to assist in identifying their needs and responsibilities in the area of occupational safety and health, to develop plans in accordance with the provisions of this Act, to improve the administration and enforcement of State occupational safety and health laws, and to conduct experimental and demonstration projects in connection therewith;

(12) by providing for appropriate reporting procedures with respect to occupational safety and health which procedures will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health program;

(13) by encouraging joint labor-management efforts to reduce injuries and disease arising out of employment.

DEFINITIONS

Sec. 3. For the purposes of this Act—

(1) The term "Secretary" means the Secretary of Labor.

(2) The term "Commission" means the Occupational Safety and Health Review Commission established under this Act.

(3) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a State and any place outside thereof, or within the District of Columbia, or a possession of the United States (other than the Trust Territory of the Pacific Islands), or between points in the same State but through a point outside thereof.

(4) The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(5) The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State.

(6) The term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce.

(7) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(8) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

(9) The term "national consensus standard" means any occupational safety and health standard or modification thereof which (1), has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby it can be determined by the Secretary that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption, (2) was formulated in a manner which afforded an opportunity for diverse views to be considered and (3) has been designated as such a standard by the Secretary, after consultation with other appropriate Federal agencies.

(10) The term "established Federal standard" means any operative occupational safety and health standard established by any agency of the United States and presenting in effect, or contained in any Act of Congress in force on the date of enactment of this Act.

(11) The term "Committee" means the National Advisory Committee on Occupational Safety and Health established under this Act.

(12) The term "Director" means the Director of the National Institute of Occupational Safety and Health.

(13) The term "Institute" means the National Institute for Occupational Safety and Health established under this Act.

(14) The term "Workmen's Compensation Commission" means the National Commission on State Workmen's Compensation Laws established under this Act.

APPLICABILITY OF THIS ACT

Sec. 4. (a) This Act shall apply with respect to employment performed in a workplace in a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, Wake Island, Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act, Johnston Island, and the Canal Zone. The Secretary of the Interior shall, by regulation, provide for judicial enforcement of this Act by the courts established for areas in which there are no United States district courts having jurisdiction.

(b) (1) Nothing in this Act shall apply to working conditions of employees with respect to which other Federal agencies, and State agencies acting under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021), exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety of health.

(2) The safety and health standards promulgated under the Act of June 30, 1936, commonly known as the Walsh-Healey Act (41 U.S.C. 35 et seq.), the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), Public Law 91-54, Act of August 9, 1969 (40 U.S.C. 333), Public Law 85-742, Act of August 23, 1958 (33 U.S.C. 941), and the National Foundation on Arts and Humanities Act (20 U.S.C. 951 et seq.) are superseded on the effective date of corresponding standards, promulgated under this Act, which are determined by the Secretary to be more effective. Standards issued under the laws listed in this paragraph and in effect on or after the effective date of this Act shall be deemed to be occupational safety and health standards issued under this Act, as well as under such other Acts.

(3) The Secretary shall, within three years after the effective date of this Act, report to the Congress his recommendations for legislation to avoid unnecessary deuplication and to achieve coordination between this Act and other Federal laws.

(4) Nothing in this Act shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment.

DUTIES

Sec. 5. (a) Each employer

(1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees;

(2) shall comply with occupational safety and health standards promulgated under this Act.

(b) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Sec. 6. (a) Without regard to chapter 5 of title 5, United States Code, or to the other subsections of this section, the Secretary shall, as soon as practicable during the period beginning with the effective date of this Act and ending two years after such date, by rule promulgate as an occupational safety of health standard any national consensus standard, and any established Federal standard, unless he determines that the promulgation of such a standard would not result in improved safety of health for specifically designated employees. In the event of conflict among any such standards, the Secretary shall promulgate the standard which assures the greatest protection of the safety or health of the affected employees.

(b) The Secretary may by rule promulgate, modify, or revoke any occupational safety or health standard in the following manner:

(1) Whenever the Secretary, upon the basis of information submitted to him in writing by an interested person, a representative of any organization of employers or employees, a nationally recognized standards-producing organization, the Secretary of Health, Education, and Welfare, the National Institute for Occupational Safety and Health, or a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this Act, the Secretary may request the recommendations of an advisory committee appointed under section 7 of this Act. The Secretary shall provide such an advisory committee with any proposals of his own or of the Secretary of Health, Education, and Welfare, or together with all pertinent factual information developed by the Secretary or the Secretary of Health, Education, and Welfare, or otherwise available, including the results of research, demonstrations, and experiments. An advisory committee shall submit to the Secretary its recommendations regarding the rule to be promulgated within ninety days from the date of its appointment or within such longer or shorter period as may be prescribed by the Secretary, but in no event for a period which is longer than two hundred and seventy days.

(2) The Secretary shall publish a proposed rule promulgating, modifying, or revoking an occupational safety or health standard in the Federal Register and shall afford interested persons a period of thirty days after publication to submit written data or comments. Where an advisory committee is appointed and the Secretary determines that a rule should be issued, he shall publish the proposed rule within sixty days after the submission of the advisory committee's recommendations or the expiration of the period prescribed by the Secretary for such submission.

(3) On or before the last day of the period provided for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objections to the proposed rule, stating the grounds therefor and requesting a public hearing on such objections. Within thirty days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the occupational safety or health standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing.

(4) Within sixty days after the expiration of the period provided for the submission of written data or comments under paragraph (2), or within sixty days after the completion of any hearing held under paragraph (3), the Secretary shall issue a rule promulgating, modifying, or revoking an occupational safety or health standard or make a determination that a rule should not be isued. Such a rule may contain a provision delaying its effective date for such period (not in excess of ninety days) as the Secretary determines may be necessary to insure that affected employers and employees will be informed of the existence of the standard and of its terms and that employers affected are given an opportunity to familiarize themselves and their employees with the existence of the requirements of the standard.

(5) The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

(6) (A) Any employer may apply to the Secretary for a temporary order granting a variance from a standard or any provision thereof promulgated under this section. Such temporary order shall be granted only if the employer files an application which meets the requirements of clause (B) and establishes that (i) he is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date, (ii) he is taking all available steps to safeguard his employees against the hazards covered by the standard, and (iii) he has an effective program for coming into compliance with the standard as quickly as practicable. Any temporary order issued under this paragraph shall prescribe the practices, means, methods, operations, and processes which the employer must adopt and use while the

order is in effect and state in detail his program for coming into compliance with the standard. Such a temporary order may be granted only after notice to employees and an opportunity for a hearing: *Provided,* That the Secretary may issue one interim order to be effective until a decision is made on the basis of the hearing. No temporary order may be in effect for longer than the period needed by the employer to achieve compliance with the standard or one year, whichever is shorter, except that such an order may be renewed not more than twice (1) so long as the requirements of this paragraph are met and (II) if an application for renewal is filed at least 90 days prior to the expiration date of the order. No interim renewal of an order may remain in effect for longer than 180 days.

(B) An application for a temporary order under this paragraph (6) shall contain:

(i) a specification of the standard or portion thereof from which the employer seeks a variance,

(ii) a representation by the employer, supported by representations from qualified persons having firsthand knowledge of the facts represented, that he is unable to comply with the standard or portion thereof and a detailed statement of the reasons therefor,

(iii) a statement of the steps he has taken and will take (with specific dates) to protect employees against the hazard covered by the standard,

(iv) a statement of when he expects to be able to comply with the standard and what steps he has taken and what steps he will take (with dates specified) to come into compliance with the standard, and

(v) a certification that he has informed his employees of the application by giving a copy thereof to their authorized representative, posting a statement giving a summary of the application and specifying where a copy may be examined at the place or places where notices to employees are normally posted, and by other appropriate means.

A description of how employees have been informed shall be contained in the certification. The information to employees shall also inform them of their right to petition the Secretary for a hearing.

(C) The Secretary is authorized to grant a variance from any standard or portion thereof whenever he determines, or the Secretary of Health, Education, and Welfare certifies, that such variance is necessary to permit an employer to participate in an experiment approved by him or the Secretary of Health, Education, and Welfare designed to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

(7) Any standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees. In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure. In the event such medical examinations are in the nature of research, as determined by the Secretary of Health, Education, and Welfare, such examinations may be furnished at the expense of the Secretary of Health, Education, and Welfare. The results of such examinations or tests shall be furnished only to the Secretary or the Secretary of Health, Education, and Welfare, and, at the request of the employee, to his physician. The Secretary, in consultation with the Secretary of Health, Education, and Welfare, may by rule promulgated pursuant to section 553 of title 5, United States Code, make appropriate modifications in the foregoing requirements relating to the use of labels or other forms of warning, monitoring or measuring, and medical examinations, as may be warranted by experience, information, or medical or technological developments acquired subsequent to the promulgation of the relevant standard.

(8) Whenever a rule promulgated by the Secretary differs substantially from an existing national consensus standard, the Secretary shall, at the same time, publish in the Federal Register a statement of the reasons why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard.

(c) (1) The Secretary shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard to take immediate effect upon publication in the Federal Register if he determines (A) that employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and (B) that such emergency standard is necessary to protect employees from such danger.

(2) Such standard shall be effective until superseded by a standard promulgated in accordance with the procedures prescribed in paragraph (3) of this subsection.

(3) Upon publication of such standard in the Federal Register the Secretary shall commence a proceeding in accordance with section 6(b) of this Act, and the standard as published shall also serve as a proposed rule for the proceeding. The Secretary shall promulgate a standard under this paragraph no later than six months after publication of the emergency standard as provided in paragraph (2) of this subsection.

(d) Any affected employer may apply to the Secretary for a rule or order for a variance from a standard promulgated under this section. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The Secretary shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Secretary on his own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

(e) Whenever the Secretary promulgates any standard, makes any rule, order, or decision, grants any exemption or extension of time, or compromises, mitigates, or settles any penalty assessed under this Act, he shall include a statement of the reasons for such action, which shall be published in the Federal Register.

(f) Any person who may be adversely affected by a standard issued under this section may at any time prior to the sixtieth day after such standard is promulgated file a petition challenging the validity of such standard with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall not, unless otherwise ordered by the court, operate as a stay of the standard. The determinations of the Secretary shall be conclusive if supported by substantial evidence in the record considered as a whole.

(g) In determining the priority for establishing standards under this section, the Secretary shall give due regard to the urgency of the need for mandatory safety and health standards for particular industries, trades, crafts, occupations, businesses, workplaces or work environments. The Secretary shall also give due regard to the recommendations of the Secretary of Health, Education, and Welfare regarding the need for mandatory standards in determining the priority for establishing such standards.

ADVISORY COMMITTEES; ADMINISTRATION

Sec. 7. (a) (1) There is hereby established a National Advisory Committee on Occupational Safety and Health consisting of twelve members appointed by the Secretary, four of whom are to be designated by the Secretary of Health, Education, and Welfare, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and composed of representatives of management, labor, occupational safety and occupational health professions, and of the public. The Secretary shall designate one of the public members as Chairman. The members shall be selected upon the basis of their experience and competence in the field of occupational safety and health.

(2) The Committee shall advise, consult with, and make recommendations to the Secretary and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act. The Committee shall hold no fewer than two meetings during each calendar year. All meetings of the Committee

shall be open to the public and a transcript shall be kept and made available for public inspection.

(3) The members of the Committee shall be compensated in accordance with the provisions of section 3109 of title 5, United States Code.

(4) The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business.

(b) An advisory committee may be appointed by the Secretary to assist him in his standard-setting functions under section 6 of this Act. Each such committee shall consist of not more than fifteen members and shall include as a member one or more designees of the Secretary of Health, Education, and Welfare, and shall include among its members an equal number of persons qualified by experience and affiliation to present the viewpoint of the employers involved, and of persons similarly qualified to present the viewpoint of the workers involved, as well as one or more representatives of health and safety agencies of the States. An advisory committee may also include such other persons as the Secretary may appoint who are qualified by knowledge and experience to make a useful contribution to the work of such committee, including one or more representatives of professional organizations of technicians or professionals specializing in occupational safety or health, and one or more representatives of nationally recognized standards-producing organizations, but the number of persons so appointed to any such advisory committee shall not exceed the number appointed to such committee as representatives of Federal and State agencies. Persons appointed to advisory committees from private life shall be compensated in the same manner as consultants or experts under section 3109 of title 5, United States Code. The Secretary shall pay to any State which is the employer of a member of such a committee who is a representative of the health or safety agency of that State, reimbursement sufficient to cover the actual cost to the State resulting from such representative's membership on such committee. Any meeting of such committee shall be open to the public and an accurate record shall be kept and made available to the public. No member of such committee (other than representatives of employers and employees) shall have an economic interest in any proposed rule.

(c) In carrying out his responsibilities under this Act, the Secretary is authorized to—

(1) use, with the consent of any Federal agency, the services, facilities, and personnel of such agency, with or without reimbursement, and with the consent of any State or political subdivision thereof, accept and use the services, facilities, and personnel of any agency of such State or subdivision with reimbursement; and

(2) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually; compensate individuals so employed at rates not in excess of the rate specified at the time of service for grade GS-18 under section 5332 of title 5, United States Code, including traveltime, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

Sec. 8. (a) In order to carry out the purposes of this Act, the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized—

(1) to enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; and

(2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

(b) In making his inspections and investigations under this Act the Secretary may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of a contumacy, failure, or refusal of any person to obey such an order, any district court of the United States or the United States courts of any territory or possession, within the jurisdiction of which such person is found, or resides or transacts business, upon the application by the Secretary, shall have jurisdiction to issue to such person an order requiring such person to appear to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(c) (1) Each employer shall make, keep and preserve, and make available to the Secretary or the Secretary of Health, Education, and Welfare, such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses. In order to carry out the provisions of this paragraph such regulations may include provisions requiring employers to conduct periodic inspections. The Secretary shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protections and obligations under this Act, including the provisions of applicable standards.

(2) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare, shall prescribe regulations requiring employers to maintain accurate records of, and to make periodic reports on, work-related deaths, injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

(3) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare, shall issue regulations requiring employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under section 6. Such regulations shall provide employees or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provision for each employee or former employee to have access to such records as will indicate his own exposure to toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable occupational safety and health standard promulgated under section 6, and shall inform any employee who is being thus exposed of the corrective action being taken.

(d) Any information obtained by the Secretary, the Secretary of Health, Education, and Welfare, or a State agency under this Act shall be obtained with a minimum burden upon employers, especially those operating small businesses. Unnecessary duplication of efforts in obtaining information shall be reduced to the maximum extent feasible.

(e) Subject to regulations issued by the Secretary, a representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any workplace under subsection (a) for the purpose of aiding such inspection. Where there is no authorized employee representative, the Secretary or his authorized representative shal consult with a reasonable number of employees concerning matters of health and safety in the workplace.

(f) (1) Any employees or representative of employees who believe that a violation of a safety of health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or representative of employees, and a copy shall be provided the employer or his agent no later than at the time of inspection, except that, upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available pursuant to subsection (g) of this section. If upon receipt of such notification the Secretary determines there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violation or danger exists. If the Secretary determines there are no reasonable grounds to believe that a violation or danger exists he shall notify the employees or representative of the employees in writing of such determination.

(2) Prior to or during any inspection of a workplace, any employees or representative of employees employed in such workplace may notify the Secretary or any representative of the Secretary responsible for conducting the inspection, in writing, of any violation of this Act which they have reason to believe exists in

such workplace. The Secretary shall, by regulation, establish procedures for informal review of any refusal by a representative of the Secretary to issue a citation with respect to any such alleged violation and shall furnish the employees or representative of employees requesting such review a written statement of the reasons for the Secretary's final disposition of the case.

(g) (1) The Secretary and Secretary of Health, Education, and Welfare are authorized to compile, analyze, and publish, either in summary or detailed form, all reports or information obtained under this section.

(2) The Secretary and the Secretary of Health, Education, and Welfare shall each prescribe such rules and regulations as he may deem necessary to carry out their responsibilities under this Act, including rules and regulations dealing with the inspection of an employer's establishment.

CITATIONS

Sec. 9. (a) If, upon inspection or investigation, the Secretary or his authorized representative believes that an employer has violated a requirement of section 5 of this Act, or any standard, rule or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, he shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The Secretary may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no direct or immediate relationship to safety or health.

(b) Each citation issued under this section, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the Secretary, at or near each place a violation referred to in the citation occurred.

(c) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

PROCEDURE FOR ENFORCEMENT

Sec. 10. (a) If, after an inspection or investigation, the Secretary issues a citation under section 9(a), he shall, within a reasonable time after the termination of such inspection or investigation, notify the employer by certified mail of the penalty, if any, proposed to be assessed under section 17 and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the citation or proposed assessment of penalty. If, within fifteen working days from the receipt of the notice issued by the Secretary the employer fails to notify the Secretary that he intends to contest the citation or proposed assessment of penalty, and no notice is filed by any employee or representative of employees under subsection (c) within such time, the citation and the assessment, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency.

(b) If the Secretary has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the Commission in the case of any review proceedings under this section initiated by employer in good faith and not solely for delay or avoidance of penalties), the Secretary shall notify the employer by certified mail of such failure and of the penalty proposed to be assessed under section 17 by reason of such failure, and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the Secretary's notification or the proposed assessment of penalty. If, within fifteen working days from the receipt of notification issued by the Secretary, the employer fails to notify the Secretary that he intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency.

(c) If an employer notifies the Secretary that he intends to contest a citation issued under section 9(a) of notification issued under subsection (a) or (b) of this section, of if, within fifteen working days of the issuance of a citation under section 9(a), any employee or representative of employees files a notice with the Secretary alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a) (3) of such section). The Commission shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation or proposed penalty, or directing other appropriate relief, and such order shall become final thirty days after its issuance. Upon a showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that abatement has not been completed because of factors beyond his reasonable control, the Secretary, after an opportunity for a hearing as provided in this subsection, shall issue an order affirming or modifying the abatement requirements in such citation. The rules of procedure prescribed by the Commission shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this subsection.

JUDICIAL REVIEW

Sec. 11. (a) Any person adversely affected or aggrieved by an order of the Commission issued under subsection (c) of section 10 may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or where the employer has its principal office, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within sixty days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to the other parties, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Commission. No objection that has not been urged before the Commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supoorted by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

(b) The Secretary may also obtain review or enforcement of any final order of the Commission by filing a petition for such relief in the United States court of appeals for the circuit in which the alleged violation occurred or in which the employer has its principal office, and the provisions of subsection (a) shall govern such proceedings to the extent applicable. If no petition for review, as provided in subsection (a), is filed within sixty days after service of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the Secretary after the expiration of such sixty-day period. In any such case, as well as in the case of a noncontested citation or notification by the Secretary which has become a final order of the Commission under subsection (a) or (b) of Section 10, the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary and the employer named in the petition. In any contempt proceeding brought to enforce a decree of a court of appeals entered pursuant to this subsection or subsection (a), the court of appeals may assess the penalties provided in section 17, in addition to invoking any other available remedies.

(c) (1) No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such

proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act.

(2) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this subsection may, within thirty days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown to restrain violations of paragraph (1) of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to his former position with back pay.

(3) Within 90 days of the receipt of a complaint filed under this subsection the Secretary shall notify the complainant of his determination under paragraph 2 of this subsection.

THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Sec. 12. (a) The Occupational Safety and Health Review Commission is hereby established. The Commission shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate, from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. The President shall designate one of the members of the Commission to serve as Chairman.

(b) The terms of members of the Commission shall be six years except that (1) the members of the Commission first taking office shall serve, as designated by the President at the time of appointment, one for a term of two years, one for a term of four years, and one for a term of six years, and (2) a vacancy caused by the death, resignation, or removal of a member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term. A member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(c) (1) Section 5314 of title 5, United States Code,[32] is amended by adding at the end thereof the following new paragraph:

"(57) Chairman, Occupational Safety and Health Review Commission."

(2) Section 5315 of title 5, United States Code,[33] is amended by adding at the end thereof the following new paragraph:

"(94) Members, Occupational Safety and Health Review Commission."

(d) The principal office of the Commission shall be in the District of Columbia. Whenever the Commission deems that the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place.

(e) The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission and shall appoint such hearing examiners and other employees as he deems necessary to assist in the performance of the Commission's functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided*, That assignment, removal and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code.

(f) For the purpose of carrying out its functions under this Act, two members of the Commission shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members.

(g) Every official act of the Commission shall be entered of record, and its hearings and records shall be open to the public. The Commission is authorized to make such rules as are necessary for the orderly transaction of its proceedings. Unless the Commission has adopted a different rule, its proceedings shall be in accordance with the Federal Rules of Civil Procedure.

(h) The Commission may order testimony to be taken by deposition in any proceedings pending before it at any state of such proceeding. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Commission. Witnesses whose depositions are taken under this subsection, and the persons taking such depositions, shall be entitled to the same fees as are paid for like services in the courts of the United States.

(i) For the purpose of any proceeding before the Commission, the provisions of section 11 of the National Labor Relations Act (29 U.S.C. 161) are hereby made applicable to the jurisdiction and powers of the Commission.

(j) A hearing examiner appointed by the Commission shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such hearing examiner by the Chairman of the Commission, and shall make a report of any such determination which constitutes his final disposition of the proceedings. The report of the hearing examiner shall become the final order of the Commission within thirty days after such report by the hearing examiner, unless within such period any Commission members has directed that such report shall be reviewed by the Commission.

(k) Except as otherwise provided in this Act, the hearing examiners shall be subject to the laws governing employees in the classified civil service, except that appointments shall be made without regard to section 5108 of title 5, United States Code. Each hearing examiner shall receive compensation at a rate not less than that prescribed for GS-16 under section 5332 of title 5, United States Code.

PROCEDURES TO COUNTERACT IMMINENT DANGERS

Sec. 13. (a) The United States district courts shall have jurisdiction, upon petition of the Secretary, to restrain any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner.

(b) Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this Act. The proceeding shall be as provided by Rule 65 of the Federal Rules, Civil Procedure, except that no temporary restraining order issued without notice shall be effective for a period longer than five days.

(c) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any place of employment, he shall inform the affected employees and employers of the danger and that he is recommending to the Secretary that relief be sought.

(d) If the Secretary arbitrarily or capriciously fails to seek relief under this section, any employee who may be injured by reason of such failure, or the representative of such employees, might bring an action against the Secretary in the United States district court for the district in which the imminent danger is alleged to exist or the employer has its principal office, or for the District of Columbia, for a writ of mandamus to compel the Secretary to seek such an order and for such further relief as may be appropriate.

REPRESENTATION IN CIVIL LITIGATION

Sec. 14. Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

CONFIDENTIALITY OF TRADE SECRETS

Sec. 15. All information reported to or otherwise obtained by the Secretary or his representative in connection with any inspection or proceeding under this Act which contains or which might reveal a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. In any such proceeding the Secretary, the Commission, or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

VARIATIONS, TOLERANCES, AND EXEMPTIONS

Sec. 16. The Secretary, on the record, after notice and opportunity for a hearing may provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act as he may find necessary and proper to avoid serious impairment of the national defense. Such action shall not be in effect for more than six months without notification to affected employees and an opportunity being afforded for a hearing.

PENALTIES

Sec. 17. (a) Any employer who willfully or repeatedly violates the requirements of section 5 of this Act, any standard, rule, or order promulgated pursuant to section 6 of this Act, or regulations prescribed pursuant to this Act, may be assessed a civil penalty of not more than $10,000 for each violation.

(b) Any employer who has received a citation for a serious violation of the requirements of section 5 of this Act, of any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, shall be assessed a civil penalty of up to $1,000 for each such violation.

(c) Any employer who has received a citation for a violation of the requirements of section 5 of this Act, of any standard, rule, or order promulgated pursuant to section 6 of this Act, or of regulations prescribed pursuant to this Act, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to $1,000 for each such violation.

(d) Any employer who fails to correct a violation for which a citation has been issued under section 9(a) within the period permitted for its correction (which period shall not begin to run until the date of the final order of the Commission in the case of any review proceeding under section 10 initiated by the employer in good faith and not solely for delay or avoidance of penalties), may be assessed a civil penalty of not more than $1,000 for each day during which such failure or violation continues.

(e) Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 6 of this Act, or of any regulations prescribed pursuant to this Act, and that violation caused death to any employee, shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than $20,000 or by imprisonment for not more than one year, or by both.

(f) Any person who gives advance notice of any inspection to be conducted under this Act, without authority from the Secretary or his designees, shall, upon conviction, be punished by a fine of not more than $1,000 or by imprisonment for not more than six months, or by both.

(g) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imrpisonment for not more than six months, or by both.

(h) (1) Section 1114 of title 18, United States Code,[34] is hereby amended by striking out "designated by the Secretary of Health, Education, and Welfare to conduct investigations, or inspections under the Federal Food, Drug, and Cosmetic Act" and inserting in lieu thereof "or of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions".

(2) Notwithstanding the provisions of sections 1111 and 1114 of title 18, United States Code, whoever, in violation of the provisions of section 1114 of such title, kills a person while engaged in or on account of the performance of investigative, inspection, or law enforcement functions added to such 1114 by paragraph (1) of this subsection, and who would otherwise be subject to the penalty provisions of such section 1111, shall be punished by imprisonment for any term of years or for life.

(i) Any employer who violates any of the posting requirements, as prescribed under the provisions of this Act, shall be assessed a civil penalty of up to $1,000 for each violation.

(j) The Commission shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

(k) For purposes of this section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(l) Civil penalties owed under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation is alleged to have occurred or where the employer has its principal office.

STATE JURISDICTION AND STATE PLANS

Sec. 18. (a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any occupational safety or health issue with respect to which no standard is in effect under section 6.

(b) Any State which, at any time, desires to assume responsibility for development and enforcement therein of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated under section 6 shall submit a State plan for the development of such standards and their enforcement.

(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State,

(2) provides for the development and enforcement of safety and health standards relating to one or more safety or health issues, which standards (and the enforcement of which standards) are or will be at least as effective in providing safe and healthful employment and places of employment as the standards promulgated under section 6 which relate to the same issues, and which standards, when applicable to products which are distributed or used in interstate commerce, are required by compelling local conditions and do not unduly burden interstate commerce,

(3) provides for a right of entry and inspection of all workplaces subject to the Act which is at least as effective as that provided in section 8, and includes a prohibition on advance notice of inspections,

(4) contains satisfactory assurances that such agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards,

(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards,

(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions, which program is as effective as the standards contained in an approved plan,

(7) requires employers in the State to make reports to the Secretary in the same manner and to the same extent as if the plan were not in effect, and

(8) provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time require.

(d) If the Secretary rejects a plan submitted under subsection (b), he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

(e) After the Secretary approves a State plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under sections 8, 9, 10, 13, and 17 with respect to comparable standards promulgated under section 6, for the period specified in the next sentence. The Secretary may exercise the authority referred to above until he determines, on the basis of actual operations under the State plan, that the criteria set forth in subsection (c) are being applied, but he shall not make such determination for at least three years after the plan's approval under subsection (c). Upon making the determination referred to in the preceding sentence, the provisions of Sections 5(a) (2), 8 (except for the purpose of carrying out subsection (f) of this section), 9, 10, 13, and 17, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the date of determination.

(f) The Secretary shall, on the basis of reports submitted by the State agency and his own inspections make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), he shall notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawl of the plan.

(g) The State may obtain a review of a decision of the Secretary withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of such a plan is not supported by substantial evidence the court shall affirm the Secretary's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) The Secretary may enter into an agreement with a State under which the State will be permitted to continue to enforce one or more occupational health and safety standards in effect in such State until final action is taken by the Secretary with respect to a plan submitted by a State under subsection (b) of this section, or two years from the date of enactment of this Act, whichever is earlier.

FEDERAL AGENCY SAFETY PROGRAMS AND RESPONSIBILITIES

Sec. 19. (a) It shall be the responsibility of the head of each Federal agency to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under section 6. The head of each agency shall (after consultation with representatives of the employees thereof)—

(1) provide safe and healthful places and conditions of employment, consistent with the standards set under section 6;

(2) acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect employees;

(3) keep adequate records of all occupational accidents and illnesses for proper evaluation and necessary corrective action;

(4) consult with the Secretary with regard to the adequacy as to form and content of records kept pursuant to subsection (a) (3) of this section; and

(5) make an annual report to the Secretary with respect to occupational accidents and injuries and the agency's program under this section. Such report shall include any report submitted under section 7902(e) (2) of title 5, United States Code.

(5) make an annual report to the Secretary with respect to occupational accidents and injuries and the agency's program under this section. Such report shall include any report submitted under section 7902(e) (2) of title 5, United States Code.

(b) The Secretary shall report to the President a summary or digest of reports submitted to him under subsection (a) (5) of this section, together with his evaluations of and recommendations derived from such reports. The President shall transmit annually to the Senate and the House of Representatives a report of the activities of Federal agencies under this section.

(c) Section 7902(c) (1) of title 5, United States Code,[35] is amended by inserting after "agencies" the following: "and of labor organizations representing employees".

(d) The Secretary shall have access to records and reports kept and filed by Federal agencies pursuant to subsections (a) (3) and (5) of this section unless those records and reports are specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy, in which case the Secretary shall have access to such information as will not jeopardize national defense or foreign policy.

RESEARCH AND RELATED ACTIVITIES

Sec. 20. (a) (1) The Secretary of Health, Education, and Welfare, after consultation with the Secretary and with other appropriate Federal departments or agencies, shall conduct (directly or by grants or contracts) research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems.

(2) The Secretary of Health, Education, and Welfare shall from time to time consult with the Secretary in order to develop specific plans for such research, demonstrations, and experiments as are necessary to produce criteria, including criteria identifying toxic substances, enabling the Secretary to meet his responsibility for the formulation of safety and health standards under this Act; and the Secretary of Health, Education, and Welfare, on the basis of such research, demonstrations, and experiments and any other information available to him, shall develop and publish at least annually such criteria as will effectuate the purposes of this Act.

(3) The Secretary of Health, Education, and Welfare, on the basis of such research, demonstrations, and experiments, and any other information available to him, shall develop criteria dealing with toxic materials and harmful physical agents and substances which will describe exposure levels that are safe for various periods of employment, including but not limited to the exposure levels at which no employee will suffer impaired health or functional capacities or diminished life expectancy as a result of his work experience.

(4) The Secretary of Health, Education, and Welfare shall also conduct special research, experiments, and demonstrations relating to occupational safety and health as are necessary to explore new problems, including those created by new technology in occupational safety and health, which may require ameliorative action beyond that which is otherwise provided for in the operating provisions of this Act. The Secretary of Health, Education, and Welfare shall also conduct research into the motivational and behavioral factors relating to the field of occupational safety and health.

(5) The Secretary of Health, Education, and Welfare, in order to comply with his responsibilities under paragraph (2), and in order to develop needed information regarding potentially toxic substances or harmful physical agents, may prescribe regulations requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents which the Secretary of Health, Education, and Welfare reasonably believes may endanger the health or safety of employees. The Secretary of Health, Education, and Welfare also is authorized to establish such programs of medical examinations and tests as may be necessary for determining the incidence of occupational illnesses and the susceptibility of employees to such illnesses. Nothing in this or any other provision of this Act shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others. Upon the request of any employer who is required to measure and record exposure of employees to substances or physical agents as provided under this subsection, the Secretary of Health, Education, and Welfare shall furnish full financial or other assistance to such employer for the purpose of defraying any additional expense incurred by him in carrying out the measuring and recording as provided in this subsection.

(6) The Secretary of Health, Education, and Welfare shall publish within six months of enactment of this Act and thereafter as needed but at least annually a list of all known toxic substances by generic family or other useful grouping, and the concentrations at which such toxicity is known to occur. He shall determine following a written request by any employer or authorized representative of employees, specifying with reasonable particularity the grounds on which the request is made, whether any substance normally found in the place of employment has potentially toxic effects in such concentrations as used or found; and shall submit such determination both to employers and affected employees as soon as possible. If the Secretary of Health, Education, and Welfare determines that any substance is potentially toxic at the concentrations in which it is used or found in a place of employment, and such substance is not covered by an occupational safety or health standard promulgated under section 6, the Secretary of Health, Education, and Welfare shall immediately submit such determination to the Secretary, together with all pertinent criteria.

(7) Within two years of enactment of this Act, and annually thereafter the Secretary of Health, Education, and Welfare shall conduct and publish industrywide studies of the effect of chronic or low-level exposure to industrial materials, processes, and stresses on the potential for illness, disease, or loss of functional capacity in aging adults.

(b) The Secretary of Health, Education, and Welfare is authorized to make inspections and question employers and employees as provided in section 8 of this Act in order to carry out his functions and responsibilities under this section.

(c) The Secretary is authorized to enter into contracts, agreements, or other arrangements with appropriate public agencies or private organizations for the purpose of conducting studies relating to his responsibilities under this Act. In carrying out his responsibilities under this subsection, the Secretary shall cooperate with the Secretary of Health, Education, and Welfare in order to avoid any duplication of efforts under this section.

(d) Information obtained by the Secretary and the Secretary of Health, Education, and Welfare under this section shall be disseminated by the Secretary to employers and employees and organizations thereof.

(e) The functions of the Secretary of Health, Education, and Welfare under this Act shall, to the extent feasible, be delegated to the Director of the National Institute of Occupational Safety and Health established by section 22 of this Act.

TRAINING AND EMPLOYEE EDUCATION

Sec. 21. (a) The Secretary of Health, Education, and Welfare, after consultation with the Secretary and with other appropriate Federal departments and agencies, shall conduct, directly or by grants or contracts (1) education programs to provide an adequate supply of qualified personnel to carry out the purposes of this Act, and (2) informational programs on the importance of and proper use of adequate safety and health equipment.

(b) The Secretary is also authorized to conduct, directly or by grants or contracts, short-term training of personnel engaged in work related to his responsibilities under this Act.

(c) The Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall (1) provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions in employments covered by this Act, and (2) consult with and advise employers and employees, and organizations representing employers and employees as to effective means of preventing occupational injuries and illnesses.

NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

Sec. 22. (a) It is the purpose of this section to establish a National Institute for Occupational Safety and Health in the Department of Health, Education, and Welfare in order to carry out the policy set forth in section 2 of this Act and to perform the functions of the Secretary of Health, Education, and Welfare under sections 20 and 21 of this Act.

(b) There is hereby established in the Department of Health, Education, and Welfare a National Institute of Occupational Safety and Health. The Institute shall be headed by a Director who shall be appointed by the Secretary of Health, Education, and Welfare, and who shall serve for a term of six years unless previously removed by the Secretary of Health, Education, and Welfare.

(c) The Institute is authorized to—

(1) develop and establish recommended occupational safety and health standards; and

(2) perform all functions of the Secretary of Health, Education, and Welfare under sections 20 and 21 of this Act.

(d) Upon his own initiative, or upon the request of the Secretary or the Secretary of Health, Education, and Welfare, the Director is authorized (1) to conduct such research and experimental programs as he determines are necessary for the development of criteria for new and improved occupational safety and health standards, and (2) after consideration of the results of such research and experimental programs make recommendations concerning new or improved occupational safety and health standards. Any occupational safety and health standard recommended pursuant to this section shall immediately be forwarded to the Secretary of Labor, and to the Secretary of Health, Education, and Welfare.

(e) In addition to any authority vested in the Institute by other provisions of this section, the Director, in carrying out the functions of the Institute, is authorized to—

(1) prescribe such regulations as he deems necessary governing the manner in which its functions shall be carried out;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of the Institute and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(3) receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)), money and other property donated, bequeathed, or devised to the Institute with a condition or restriction, including a condition that the Institute use other funds of the Institute for the purposes of the gift;

(4) in accordance with the civil service laws, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this section;

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(7) enter into contracts, grants or other arrangements, or modifications thereof to carry out the provisions of this section, and such contracts or modifications thereof may be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or any other provision of law relating to competitive bidding;

(8) make advance, progress, and other payments which the Director deems necessary under this title without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(9) make other necessary expenditures.

(f) The Director shall submit to the Secretary of Health, Education, and Welfare, to the President, and to the Congress an annual report of the operations of the Institute under this Act, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as he deems appropriate.

GRANTS TO THE STATES

Sec. 23. (a) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeedig fiscal years, to make grants to the States which have designated a State agency under section 18 to assist them—

(1) in identifying their needs and responsibilities in the area of occupational safety and health,

(2) in developing State plans under section 18, or

(3) in developing plans for—

(A) establishing systems for the collection of information concerning the nature and frequency of occupational injuries and diseases;

(B) increasing the expertise and enforcement capabilities of their personnel engaged in occupational safety and health programs; or

(C) otherwise improving the administration and enforcement of State occupational safety and health laws, including standards thereunder, consistent with the objectives of this Act.

(b) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States for experimental and demonstration projects consistent with the objectives set forth in subsection (a) of this section.

(c) The Governor of the State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(d) Any State agency designated by the Governor of the State desiring a grant under this section shall submit an application therefor to the Secretary.

(e) The Secretary shall review the application, and shall, after consultation with the Secretary of Health, Education, and Welfare, approve or reject such application.

(f) The Federal share for each State grant under subsection (a) or (b) of this section may not exceed 90 per centum of the total cost of the application. In the event the Federal share for all States under either such subsection is not the same, the differences among the states shall be established on the basis of objective criteria.

(g) The Secretary is authorized to make grants to the States to assist them in administering and enforcing programs for occupational safety and health contained in State plans approved by the Secretary pursuant to section 18 of this Act. The Federal share for each State grant under this subsection may not exceed 50 per centum of the total cost to the State of such a program. The last sentence of subsection (f) shall be applicable in determining the Federal share under this subsection.

(h) Prior to June 30, 1973, the Secretary shall, after consultation with the Secretary of Health, Education, and Welfare, transmit a report to the President and to the Congress, describing the experience under the grant programs authorized by this section and making any recommendations he may deem appropriate.

STATISTICS

Sec. 24. (a) In order to further the purposes of this Act, the Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. Such program may cover all employments whether or not subject to any other provisions of this Act but shall not cover employments excluded by section 4 of the Act. The Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work other than minor injuries requiring only first aid treatment and which do not involved medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

(b) To carry out his duties under subsection (a) of this section, the Secretary may—

(1) promote, encourage, or directly engaged in programs of studies, information and communication concerning occupational safety and health statistics;

(2) make grants to States or political subdivisions thereof in order to assist them in developing and administering programs dealing with occupational safety and health statistics; and

(3) arrange, through grants or contracts, for the conduct of such research and investigations as give promise of furthering the objectives of this section.

(c) The Federal share for each grant under subsection (b) of this section may be up to 50 per centum of the State's total cost.

(d) The Secretary may, with the consent of any State or political subdivision thereof, accept and use the services, facilities, and employees of the agencies of such State or political subdivision, with or without reimbursement, in order to assist him in carrying out his functions under this section.

(e) On the basis of the records made and kept pursuant to section 8(c) of this Act, employers shall file such reports with the Secretary as he shall prescribe by regulation, as necessary to carry out his functions under this Act.

(f) Agreements between the Department of Labor and States pertaining to the collection of occupational safety and health statistics already in effect on the effective date of this Act shall remain in effect until superseded by grants or contracts made under this Act.

AUDITS

Sec. 25. (a) Each recipient of a grant under this Act shall keep such records as the Secretary or the Secretary of Health, Education, and Welfare shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary or the Secretary of Health, Education, and Welfare, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of any grant under this Act that are pertinent to any such grant.

ANNUAL REPORT

Sec. 26. Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary and the Secretary of Health, Education, and Welfare shall each prepare and submit to the President for transmittal to the Congress a report upon the subject matter of this Act, the progress toward achievement of the purpose of this Act, the needs and requirements in the field of occupational safety and health, and any other relevant information. Such reports shall include information regarding occupational safety and health standards, and criteria for such standards, developed during the preceding year; evaluation of standards and criteria previously developed under this Act, defining areas of emphasis for new criteria and standards; an evaluation of the degree of observance of applicable occupational safety and health standards, and a summary of inspection and enforcement activity undertaken; analysis and evaluation of research activities for which results have been obtained under governmental and nongovernmental sponsorship; an analysis of major occupational diseases; evaluation of available control and measurement technology for hazards for which standards or criteria have been developed during the preceding year; description of cooperative efforts undertaken between Government agencies and other interested parties in the implementation of this Act during the preceding year; a progress report on the development of an adequate supply of trained manpower in the field of occupational safety and health, including estimates of future needs and the efforts being made by Government and others to meet those needs; listing of all toxic substances in industrial usage for which labeling requirements, criteria, or standards have not yet been established; and such recommendations for additional legislation as are deemed necessary to protect the safety and health of the worker and improve the administration of this Act.

NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS

Sec. 27. (a) (1) The Congress hereby finds and declares that—

(A) the vast majority of American workers, and their families, are dependent on workmen's compensation for their basic economic security in the event such workers suffer disabling injury or death in the course of their employment; and that the full protection of American workers from job-related injury or death requires an adequate, prompt, and equitable system of workmen's compensation as well as an effective program of occupational health and safety regulation; and

(B) in recent years serious questions have been raised concerning the fairness and adequacy of present workmen's compensation laws in the light of the growth of the economy, the changing nature of the labor force, increases in medical knowledge, changes in the hazards associated with various types of employment, new technology creating new risks to health and safety, and increases in the general level of wages and the cost of living.

(2) The purpose of this section is to authorize an effective study and objective evaluation of State workmen's compensation laws in order to determine if such laws provide an adequate, prompt, and equitable system of compensation for injury or death arising out of or in the course of employment.

(b) There is hereby established a National Commission on State Workmen's Compensation Laws.

(c) (1) The Workmen's Compensation Commission shall be composed of fifteen members to be appointed by the President from among members of State workmen's compensation boards, representatives of insurance carriers, business, labor, members of the medical profession having experience in industrial medicine or in workmen's compensation cases, educators having special expertise in the field of workmen's compensation, and representatives of the general public. The Secretary, the Secretary of Commerce, and the Secretary of Health, Education, and Welfare shall be ex officio members of the Workmen's Compensation Commission:

(2) Any vacancy in the Workmen's Compensation Commission shall not affect its powers.

(3) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Workmen's Compensation Commission.

(4) Eight members of the Workmen's Compensation Commission shall constitute a quorum.

(d) (1) The Workmen's Compensation Commission shall undertake a comprehensive study and evaluation of State workmen's compensation laws in order to determine if such laws provide an adequate, prompt, and equitable system of compensation. Such study and evaluation shall include, without being limited to, the following subjects: (A) the amount and duration of permanent and temporary disability benefits and the criteria for determining the maximum limitations thereon, (B) the amount and duration of medical benefits and provisions insuring adequate medical care and free choice of physician, (C) the extent of coverage of workers, including exemptions based on numbers of type of employment, (D) standards for determining which injuries or diseases should be deemed compensable, (E) rehabilitation, (F) coverage under second or subsequent injury funds, (G) time limits on filing claims, (H) waiting periods, (I) compulsory or elective coverage, (J) administration, (K) legal expenses, (L) the feasibility and desirability of a uniform system

of reporting information concerning job-related injuries and diseases and the operation of workmen's compensation laws, (M) the resolution of conflict of laws, extraterritoriality and similar problems arising from claims with multistate aspects, (N) the extent to which private insurance carriers are excluded from supplying workmen's compensation coverage and the desirability of such exclusionary practices, to the extent they are found to exist, (O) the relationship between workmen's compensation on the one hand, and old-age, disability, and survivors insurance and other types of insurance, public or private, on the other hand, (P) methods of implementing the recommendations of the Commission.

(2) The Workmen's Compensation Commission shall transmit to the President and to the Congress not later than July 31, 1972, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable.

(e) (1) The Workmen's Compensation Commission or, on the authorization of the Workmen's Compensation Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings, take such testimony, and sit and act at such times and places as the Workmen's Compensation Commission deems advisable. Any member authorized by the Workmen's Compensation Commission may administer oaths or affirmations to witnesses appearing before the Workmen's Compensation Commission or any subcommittee or members thereof.

(2) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Workmen's Compensation Commission, upon request made by the Chairman or Vice Chairman, such information as the Workmen's Compensation Commission deems necessary to carry out its functions under this section.

(f) Subject to such rules and regulations as may be adopted by the Workmen's Compensation Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(g) The Workmen's Compensation Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(h) Members of the Workmen's Compensation Commission shall receive compensation for each day they are engaged in the performance of their duties as members of the Workmen's Compensation Commission at the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Workmen's Compensation Commission.

(i) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(j) On the ninetieth day after the date of submission of its final report to the President, the Workmen's Compensation Commission shall cease to exist.

ECONOMIC ASSISTANCE TO SMALL BUSINESSES

Sec. 28. (a) Section 7(b) of the Small Business Act, as amended,[36] is amended—

(1) by striking out the period at the end of "paragraph (5)" and inserting in lieu thereof "; and"; and

(2) by adding after paragraph (5) a new paragraph as follows:

"(6) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in the equipment, facilities, or methods of operation of such business in order to comply with the applicable standards promulgated pursuant to section 6 of the Occupational Safety and Health Act of 1970 or standards adopted by a State pursuant to a plan approved under section 18 of the Occupational Safety and Health Act of 1970, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b) The third sentence of section 7(b) of the Small Business Act, as amended, is amended by striking out "or (5)" after "paragraph (3)" and inserting a comma followed by "(5) or (6)".

(c) Section 4(c) (1) of the Small Business Act, as amended,[37] is amended by inserting "7(b) (6)," after "7(b) (5),".

(d) Loans may also be made or guaranteed for the purposes set forth in Section 7(b) (6) of the Small Business Act, as amended, pursuant to the provisions of section 202 of the Public Works and Economic Development Act of 1965, as amended.

ADDITIONAL ASSISTANT SECRETARY OF LABOR

Sec. 29. (a) Section 2 of the Act of April 17, 1946 (60 Stat. 91) as amended (29 U.S.C. 553)[38] is amended by—

(1) striking out "four" in the first sentence of such section and inserting in lieu thereof "five"; and

(2) adding at the end thereof the following new sentence, "One of such Assistant Secretaries shall be an Assistant Secretary of Labor for Occupational Safety and Health."

(b) Paragraph (20) of section 5315 of title 5, United States Code,[39] is amended by striking out "(4)" and inserting in lieu thereof "(5)".

ADDITIONAL POSITIONS

Sec. 30. Section 5109(c) of title 5, United States Code,[40] is amended by—

(1) striking out the world "and" at the end of paragraph (8);

(2) striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and the world "and"; and

(3) by adding immediately after paragraph (9) the following new paragraph:

"(10) (A) the Secretary of Labor, subject to the standards and procedures prescribed by this chapter, may place an additional twenty-five positions in the Department of Labor in GS-16, 17, and 18 for the purposes of carrying out his responsibilities under the Occupational Safety and Health Act of 1970;

(B) the Occupational Safety and Health Review Commission, subject to the standards and procedures prescribed by this chapter, may place ten positions in GS-16, 17, and 18 in carrying out its functions under the Occupational Safety and Health Act of 1970."

EMERGENCY LOCATOR BEACONS

Sec. 31. Section 601 of the Federal Aviation Act of 1958[41] is amended by inserting at the end thereof a new subsection as follows:

"EMERGENCY LOCATOR BEACONS

"(d) (1) Except with respect to aircraft described in paragraph (2) of this subsection, minimum standards pursuant to this section shall include a requirement that emergency locator beacons shall be installed

"(A) on any fixed-wing, powered aircraft for use in air commerce the manufacture of which is completed, or which is imported into the United States, after one year following the date of enactment of this subsection; and

(B) on any fixed-wing, powered aircraft used in air commerce after three years following such date.

"(2) The provisions of this subsection shall not apply to jet-powered aircraft; aircraft used in air transportation (other than air taxis and charter aircraft); military aircraft; aircraft used solely for training purposes not involving flights more than twenty miles from its base; and aircraft used for the aerial application of chemicals."

SEPARABILITY

Sec. 32. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

APPROPRIATIONS

Sec. 33. There are authorized to be appropriated to carry out this Act for each fiscal year such sums as the Congress shall deem necessary.

EFFECTIVE DATE

Sec. 34. This Act shall take effect one hundred and twenty days after the date of its enactment.

Approved December 19, 1970.

Recordkeeping Requirements

under the Williams-Steiger Occupational Safety and Health Act of 1970.

SAFETY AND HEALTH PROTECTION ON THE JOB

The Williams-Steiger Occupational Safety and Health Act of 1970 provides job safety and health protection for workers. The purpose of the Federal law is to assure safe and healthful working conditions throughout the Nation.

The U.S. Department of Labor has primary responsibility for administering the Act. The Department issues job safety and health standards, and employers and employees are required to comply with these standards.

BY LAW: SAFETY ON THE JOB IS EVERYBODY'S RESPONSIBILITY!

EMPLOYERS: The Williams-Steiger Act requires that each employer furnish his employees a place of employment free from recognized hazards that might cause serious injury or death; and the Act further requires that employers comply with the specific safety and health standards issued by the Department of Labor.

EMPLOYEES: The Williams-Steiger Act also requires that each employee comply with safety and health standards, rules, regulations, and orders issued under the Act and applicable to his conduct.

COMPLIANCE WITH SAFETY AND HEALTH REQUIREMENTS

To ensure compliance with safety and health requirements, the U.S. Department of Labor conducts periodic job-site inspections. The inspections are conducted by trained safety and health compliance officers. The law requires that a... ized representative of the employer and a representative of... an opportunity to accompany the inspector for the... Workers also have the right to request... spection if they believe... site. In addition, em... attention of the safety... upon inspection the De... a citation of violation and...

Citations of violation issu... played at or near the plac...

The Act provides for manda... and for optional penalties of... of up to $1,000 are required... a violation within the period... or repeatedly violates the Act... $10,000 for each violation.

Criminal penalties are also prov... in death of an employee, upon co... $10,000 or by imprisonment for... tion of an employer after a first o...

The Act provides that employees m... in any way for filing safety and hea... rights under the Act.

For assistance and information, inclue... and health standards, contact the empl... of Labor.

Form approved
OMB No. 44R 1453

OSHA No. 101
Case or File No. .....

Supplementary Record of Occupational Injuries and Illnesses

EMPLOYER
1. Name .....
2. Mail address ..... (No. and street) (City or town) (State)
3. Location, if different from mail address .....
INJURED OR ILL EMPLOYEE
4. Name ..... (First name) (Middle name) (Last name) Social Security No. .....
5. Home address ..... (No. and street) (City or town) (State)
6. Age ..... 7. Sex: Male..... Female.....
8. Occupation ..... (Enter regular job title, not the specific activity he was performing at time of injury.)
9. Department ..... (Enter name of department or division in which the injured person is regularly employed, even though he may have been temporarily working in another department at the time of injury.)
THE ACCIDENT OR EXPOSURE TO OCCUPATIONAL ILLNESS
10. Place of accident or exposure ..... (No. and street) (City or town) (State)
... accident or exposure occurred on employer's premises, give the address of plant or establishment in which ...
... The best indication of an employee's workplace is the department or division within the plant or establishment at ...
... name which cannot be identified by number and street, please provide place ...
... as accurately as possible.
... ornament? ..... (Yes or No)
... tools or equipment or handling material, ...

OSHA No. 102

Form Approved
OMB No. 44R 1453

Summary

Occupational Injuries and Illnesses

Establishment Name and Address:

Injury and Illness Category		Fatalities	Lost Workday Cases			Nonfatal Cases Without Lost Workdays*	
			Number of Cases	Number of Cases Involving Permanent Transfer to Another Job or Termination of Employment	Number of Lost Workdays	Number of Cases	Number of Cases Involving Transfer to Another Job or Termination of Employment
Code 1	Category 2	3	4	5	6	7	8
10	Occupational Injuries						
	Occupational Illnesses						
21	Occupational Skin Diseases or Disorders						
22	Dust diseases of the lungs (pneumoconioses)						
23	Respiratory conditions due to toxic agents						
24	Poisoning (systemic effects of toxic materials)						
25	Disorders due to physical agents (other than toxic materials)						
26	Disorders d...						

Form Approved
OMB NUMBER 44R 1453

OSHA NO. 100

LOG OF OCCUPATIONAL INJURIES AND ILLNESSES

Case or file no.	Date of injury or initial diagnosis of illness. If disposition of illness was made after first day of absence enter first day of absence. (mo./day/yr.)	Employee's Name (First name, middle initial, last name)	Occupation of injured employee at time of injury or illness	Department to which employee was assigned at time of injury or illness	DESCRIPTION OF INJURY OR ILLNESS: Nature of injury or illness and part(s) of body affected (Typical entries for this column might be: Amputation of 1st joint right forefinger; Strain of lower back; Contact dermatitis on both hands; Electrocution—body)	Injury or Illness code (see back of page)	Fatalities: Enter date of death (mo./day/yr.)	EXTENT OF AND OUTCOME OF INJURY OR ILLNESS: Lost Workday Cases: Enter workdays lost due to injury or illness (see instructions on back.)	Lost Workday Cases: If other than workday, the employee was permanently assigned to another job or was terminated, enter a check in the column below	Nonfatal Cases Without Lost Workdays: If no entry was made in columns 9 or 10, but the injury or illness did result in: Transfer to another job or termination, or; medical treatment other than first aid, or; diagnosis of occupational illness, or; loss of consciousness, or; restriction of work or motion: Enter a check in the column below	If a check in column 11 represented a termination, enter another check in column 12
1	2	3	4	5	6		7	8	9	10	11	12

Company Name .....
Establishment Name .....
Establishment Location .....

Injury Code
10 All occupational injuries

Illness Codes
21 Occupational skin diseases or disorders
22 Dust diseases of the lungs (pneumoconioses)
23 Respiratory conditions due to toxic agents
24 Poisoning (systemic effects of toxic materials)
25 Disorders due to physical agents (other than toxic materials)
26 Disorders due to repeated trauma
29 All other occupational illnesses

• The right to request that the Labor Department make an inspection of an establishment in which it is believed that a violation of a safety or health standard exists or in which imminent peril is believed to exist.

• The right to accompany the Labor Department inspector in an investigation to determine whether violations of the safety and health standards established under the Act exist.

• The right to bring an action in a federal district court against the Secretary of Labor on behalf of an employe injured as a result of the failure of the Secretary "arbitrarily or capriciously" to seek relief under the "imminent peril" provisions of the Act.

The Department of Labor announced the appointment of Acting Directors for many offices and acting Regional Administrators for 10 regions in the United States.

Two-thirds of the OSHA staff will be in the 10 regional and 43 area offices.

Beginning on July 1, all employers covered by the Act will be required to maintain records as prescribed by the regulations. The employer will have to keep a log of reportable injuries and illnesses on a fiscal year basis, plus a supplemental record and an annual summary. Employes will, on request, have access to the summary on request.

Assistant Secretary of Labor George C. Guenther has announced that the Occupational Safety and Health Administration will concentrate on five of the Nation's most hazardous industries in the new drive to improve safety and health conditions in the workplace.

The five target industries are longshoring, roofing and sheet metal, meat and meat products, miscellaneous transportation equipment (primarily mobile home manufacturers), and lumber and wood products.

Because of the importance of the Act and so that every member will be fully informed, President C. J. Chamberlain instructed the Journal to reproduce the Act as it was signed into law.

Every officer and member is requested to retain this issue of the Journal or the insert containing the Act for their file. From time to time as additional information is available, the Journal will refer to sections of the Act that affect our members.

ATTENTION ALL MEMBERS

The Journal was informed by President John Connolly, International Allied Printing Trades Association, that:

Many International Unions and their respective subordinate local unions have been approached by the publisher and salesmen of the Encyclopaedia Britannica and Britannica Junior Encyclopaedia with a proposition of group savings to union members who are interested in obtaining encyclopedias. This promotional use of organized labor by a publisher who is on the unfair list of the Printing Trades Unions should be noted by all union members.

Encyclopaedia Britannica and Britannica Junior are manufactured by the notoriously anti-union book manufacturing firms of R. R. Donnelley and Kingsport Press under non-union conditions and should not be purchased by members of organized labor.

The Printing Trades Unions requests that all members of the Signalmen boycott Encyclopaedia Britannica and Britannica Junior and also inform their friends and family of such action.

Penn Central Signalman Saves Boy's Life

EIGHT-YEAR OLD VIRGIL Hunter and his ten-year old brother were excited.

A Penn Central track gang had come to work on the rails at Tyrone, Pa., near their home. The boys ran to watch.

Virgil slipped. He rolled down a bank onto an ice-covered stream. The ice broke and he disappeared.

Virgil's brother yelled. C&S Maintainer George Lykens rushed over.

The boy had drifted out of reach under the ice.

Upon calling for help, Maintainer Lykens went over the bank, broke through the ice, groped in the dark water, and found the unconscious boy.

M. of W. Machine Operator Raymond F. Piper and Welder Clair Geisinger arrived. The three men were able to revive him. Then M. of W. Supervisor C. D. Barefoot and Maintainer Lykens, accompanied by the boy's sister, took Virgil to the Tyrone Hospital. Four days later, Virgil was back home in good shape.

But the Penn Central men weren't finished. They collected $40 to buy Virgil new warm clothing. His mother was expecting her tenth child.

Said Allegheny Division Superintendent Kenneth F. Webel in a letter of commendation:

"This is another example of the type of people employed by Penn Central who are willing to risk their own well-being in extending efforts to help their fellow men."

Carrier Member Appointed To Railroad Retirement Board

PRESIDENT NIXON, ACTing on the recommendation of the Association of American Railroads, appointed Wythe D. Quarles, Jr., as the Management Member of the Railroad Retirement Board. Mr. Quarles' appointment to fill the unexpired term of the late Thomas M. Healy was confirmed by the Senate on June 18, 1971.

The Railroad Retirement Board is the Federal agency that administers retirement-survivor and unemployment-sickness insurance programs for railroad employes and their families.

The Railroad Retirement Board now consists of Howard W. Habermeyer, chairman; Neil P. Speirs, labor member; and W. D. Quarles, management member.

Penn Central C&S Maintainer George Lykens is shown above in better weather than the day he saved a young boy's life.

Local No. 1 Charter Member Recalls The Start of B. of R. S.

A COMMITTEE OF OFFICERS from Local No. 1 recently visited retired Brother David C. Brubaker and during the visit discussed the beginning of The Brotherhood of Railroad Signalmen.

Brother Dave is now 92 with a birthday coming up on December 5. He is still in pretty good health, getting around, and still plants a garden. He reports that he can't go to shopping centers as much as in the past (arthritis) but he does get to the golf course and sits around the Club and the greens. He still makes his home in Altoona, Pa. with his fine family.

He retired on January 15, 1954 after serving the Pennsylvania Railroad for 54 years. He entered railroad service on July 8, 1897 and worked until October 31, 1898; he was rehired by the Pennsylvania on September 11, 1899 and worked until March 31, 1900; re-entered the last time on December 6, 1900 and worked until his retirement.

The fact that Dave is the only surviving charter member of Mountain City Lodge No. 1, the committee was very grateful that he was in a position to give them first hand information regarding the origin of our organization.

Dave could not recall if it was Brother H. G. Detwiler or Philip Wohler who decided to form the organization, nor could he recall how many employes attended the first meeting held by Local No. 1.

He did recall there were 25 names on the charter, and while Dave could name most, there were a few that had slipped his mind. The charter assigned Local No. 1 contained the names of the original members but has faded so with time that the names no longer can be read.

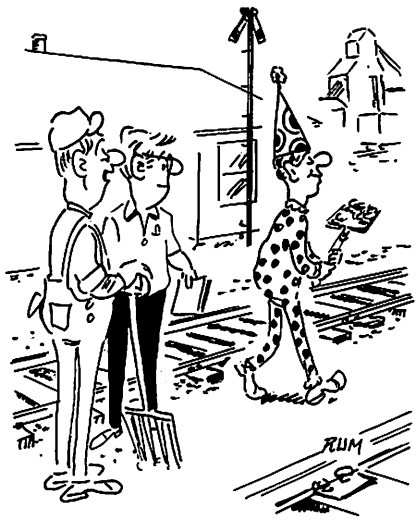
Dave reported that while many of the old members recalled meeting in horse stables and tunnels and various other locations, the B&O Tower at 24th Street in Altoona was their meeting place.

Discussing how this group organized and whether they encountered any difficulty, Brother Brubaker stated most of the criticism came from supervisors, and while management was aware of the men's intention to organize, they did not make it too difficult. The men began to organize during the year 1901, he stated, and became chartered in the year 1908. They became affiliated with the AFL in 1914.

While he has no record of when this group first met with the T&S Supervisor, he recalled that C. C. Anthony was the supervisor at the time Local No. 1 was organized. Also, that it took several meetings with management to obtain an increase in the pay rates. In fact, they had no real success for quite a long time but finally were told to go to Philadelphia.

Brother Brubaker said that he could not recall other members of Local No. 1 assisting or trying to organize locals on other divisions of the PRR or on foreign railroads. However, he could recall H. G. Detwiler being sent to Philadelphia to a meeting to determine who would be granted the charter. At that time Local No. 1 was not the only group who wanted to organize and represent the signalmen and much time was spent securing the charter.

He spoke of meeting along the line with other employes and how they would advocate these people either organize and form a local of their own or join Local No. 1. He also said while there are reports over the years that certain members of our organization presented a hardship to other employes because they would leave the job and take a train to Pittsburgh, Philadelphia, New York, or various other places, trying to organize signalmen, he never felt this was a true statement.



"Allen always says, 'You don't have to have a sense of humor to work for this outfit— but it SURE helps'!"

In recalling the rates of pay, tour of duty and working conditions previous to the first agreement, Dave stated that he received 14¢ an hour when he was hired. Working conditions covered hourly rate and hours of employment with no fringe benefits.

As a result of organizing, Dave said, the signalmen were successful in procuring rate increases from time to time.

Dave said he started railroading at age 21 and retired at 75 and during this time he received several advances in his career.

The committee interviewing Dave noted that he was admired for his supervision by those he worked for and those he supervised.

He enjoyed signal work very much and always received very good assistance from the railroad as well as the employes, he told the committee.

Commenting on how railroad equipment was replaced by new or modern equipment over the years, he told how mechanical interlocking was used by most railroads when he started out in signaling, mechanical pipe lines to throw switches, detector bars for switch protection and wire pulled signals.

He recalled the first electric circuit installed at the old GD that later became a track circuit and allowed for the removal of the detector bars as switch protection.

Many problems were presented by the mechanical locking of switches, he recalled. Also, the electric switch movement, track relays, the motorized signal, and the present time position light signals, were big changes in his time.

He felt this new equipment was a better and safer way of railroad signaling and he thought the next 50 years would see just as many changes.

Before they were able to join others in establishing a grand lodge

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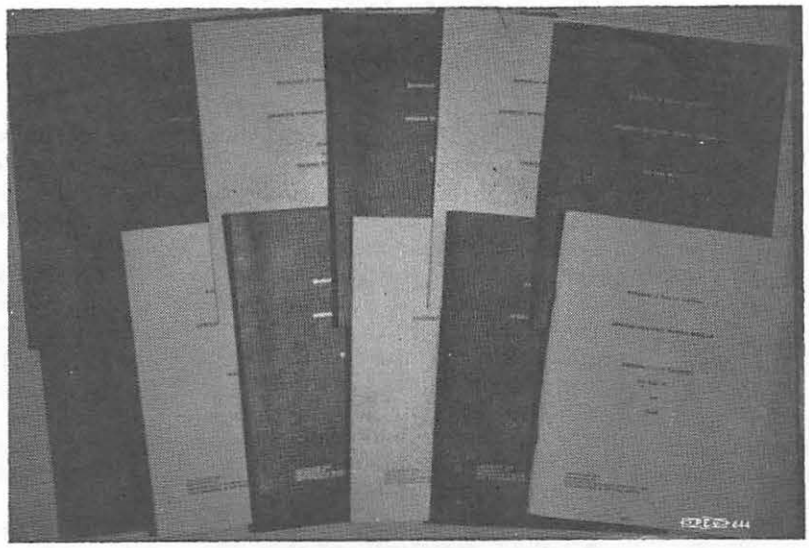

Apprentice Signalman Training Program Texts Furnish Detailed Hard to Get Information

WELL TRAINED SIGNALMEN are necessary in the installation and maintenance of signal systems on our Nation's railroads.

The technology of modern signaling is advancing at a rapid pace. New developments are being made in this specialized field regularly. Are you keeping pace with the Industry? Where can you look for help?

The Brotherhood of Railroad Signalmen is offering a series of text books, prepared especially for signalmen, at a nominal cost. A thorough knowledge of the contents of these specially prepared texts will make you a valuable asset to the company for which you work.

Text No. 1 deals primarily with carrier rules, motorcar operations, and the fundamentals of electricity as relating to signal devices, circuit symbols and nomenclature.

Text No. 2 explains signal terms and definitions, relays and relay circuits, track circuits, line circuits, code lines, and batteries used in signaling. Meters are also discussed in this text.

Text No. 3 emphasizes and explains the purpose and function of different types of relays, automatic signaling, time code control, and deals with the first principles of electronics.

Text No. 4 explains in detail the use and function of traffic control systems of signaling, and an elementary study of power switch machines.

Text No. 5 furnishes information regarding crossing protection, steady track battery on coded track circuits, polar stick relays, both front and back contact cut sections, and ICC tests of signal equipment.

Text No. 6 deals exclusively with a simple automatic interlocking and modifications necessary to operate it by remote control.

Text No. 7 is a comprehensive digest of information related to the TCS control machine; the generation and transmission of codes; chain repeat action of coding units; and indication code preference.

Text No. 8 covers electric locked switches; and maintenance procedures for detector devices, coded track circuits, carrier equipment, and diesel generators.

Mr. R. T. Bates, Secretary-Treasurer
Brotherhood of Railroad Signalmen
2247 Lawrence Avenue
Chicago, Illinois 60625

.....
(Date)

Please send me.....copy(s) of the B of R S Apprentice Signalman Training Program Text:

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Landrum-Griffin: The First Decade

by J. Albert Woll

THE DEPARTMENT OF LABOR office charged with enforcement of the Landrum-Griffin Act has summarized the law's first 10 years, reporting on its impact on labor unions, their officers and employes.

In short, the report emphatically refutes the claims of those who argue for the enactment of the law by characterizing labor organizations as racket infested, corrupt and undemocratic. The report demonstrates that there was no need in 1959 for the broad reach of the Landrum-Griffin Act, as finally drawn, and there is no need today for the continuance of many of its ill-conceived provisions.

The law was sold to the American public in 1959 as a mild reform measure allegedly needed to purge the American trade union movement of corruption. Formally known as the Labor-Management Reporting and Disclosure Act, it was spawned largely by the well-publicized investigation conducted by the Senate committee under the guidance of Sen. John L. McClellan (D-Ark.).

Many who sought the enactment of this law hailed it as the magna carta of the worker and as a sound piece of legislation well designed to limit the dictatorial powers of the so-called "labor bosses" who, it was said, had subverted the rights of individual union members, misused union funds and by fraud, deceit, coercive tactics and "rigged" elections, had perpetuated themselves in union office.

The U.S. trade union movement, on the other hand, saw no need for a law that dug so deeply into the internal affairs of unions. Pointing out that the corruption uncovered by the McClellan committee was confined to only a handful of unions and union leaders, it argued that a simple reporting and disclosure measure would be sufficient to deter union corruption and abuse. But the voice of organized labor was lost in the clamor for a tough, sweeping law that would make the federal government the policeman over the internal affairs of labor organizations and would further restrict and confine the organizing tactics of unions.

The result of this clamor was an extremely complicated, confusing and detailed law which included a conglomeration of provisions dealing with many facets of union activity. The sweeping nature of the Landrum-Griffin Act and its far-reaching effect on unions, both in the conduct of their internal affairs and in their collective bargaining activities, becomes readily apparent in the seven titles embodied in the law:

- Title I deals with what is labeled as the "bill of rights of members of labor organizations."
- Title II carries the heading "reporting by labor organizations, officers and employes of labor organizations and employers."
- Title III deals with "trusteeships."
- Title IV is identified by the single word "elections" with a subhead reading "terms of office; election procedures."
- Title V is broadly headed "safeguards for labor organizations" and includes union bonding requirements; restrictions on union loans; proscriptions against the payment of union officers' fines; prohibitions on certain persons holding union office and restrictions on employer payments to union representatives.
- Title VI is a catch-all title and is appropriately labeled "miscellaneous provisions."
- Title VII embraces Taft-Hartley Act amendments and, among other things, tightens the bans on secondary boycotts and curbs organizational and recognition picketing.

"Our union negotiators and the employer *nay*gotiators are holding a meeting."

Most of the law's provisions are enforced by the Secretary of Labor. His authority extends over the entire act with the exception of Titles I and VII. A great deal of this authority has been delegated by the secretary to the Office of Labor-Management and Welfare-Pension Reports under the general supervision of the Assistant Secretary for Labor-Management Relations. It is this office which issued the report dealing with compliance, enforcement and reporting under the Landrum-Griffin Act during the fiscal year 1969 along with a summary of the act's impact on labor unions and their officers and employes in the law's first 10 years.

Under Title II, each covered labor organization must disclose specific and detailed information with respect to its organizational structure and its procedures. This disclosure must be made in a report filed with the Secretary of Labor. In addition, each union must submit copies of its constitution and bylaws and must file with the secretary an annual report detailing the union's financial operations.

During the first 10 years of the act's existence, approximately 67,000 union organizational or information reports have been filed with the Secretary of Labor. In addition, over 500,000 annual financial reports have been filed by unions. These organizational and financial reports lay bare almost every phase of internal union activity and procedure. They are open to inspection by not only the secretary and his staff but by the public at large and union members with a legitimate interest in the reports. A

disclosure file for each reporting labor organization is maintained at the national headquarters of the Office of Labor-Management and Welfare-Pension Reports. Also, in each of its 24 area offices throughout the country, one can find duplicate disclosure files for all unions within the geographic jurisdiction of the particular area office.

From 1959 to the end of fiscal 1969, over 560,000 reports had been filed by approximately 52,000 labor organizations. During the last five years over 12,000 persons have journeyed to Labor-Management Welfare-Pension offices to inspect disclosure files. Of these visitors, over 4,000 were workers; 3,500 would not identify themselves; approximately 2,200 were union or management attorneys; about 1,200 came from investigative agencies; slightly over 1,000 represented trade associations and around 300 were from the press. Beginning with the fiscal year 1964 the public has purchased over 320,000 pages of disclosure reports.

If unions are as racket infested, corruption prone and undemocratically run as was charged at the McClellan hearings, it would follow that the Labor and Justice Departments must have been very busy during the 10 years, filing court suits to correct these evils.

But what is this 10-year record? According to the report by the Labor Department, approximately 52,000 labor organizations have filed Title II reports during each of the first 10 years of the Landrum-Griffin Act. Estimating that these labor organizations have an average of at least seven officers per union, approximately 365,000 union officials have been subject to the criminal provisions of the law each year.

Yet, in the 10 years, only 628 union representatives have been indicted—an average of less than 63 each year — for violations of the law's criminal provisions. Only 485 —an average of less than 49 each year—have been convicted of such violations. Thus, less than thirteen one-thousandths of one percent (.013 percent) of the 365,000 union representatives are convicted of Landrum-Griffin crimes each year.

About 97 percent of the convictions secured involved Title II violations, such as filing false union reports, making false entries in union records, failing to keep union records, failing to file union reports, destruction of union records, and the closely-related crime of embezzlement proscribed in Title V.

This 97 percent figure, of course, leaves very little room for convictions for other Landrum-Griffin violations. Including the crimes just mentioned, this law created about 21 new federal offenses calling for fines and imprisonment. They run the gamut of offenses, such as the failure to secure union bonds; the making of union loans to union officers or employes in excess of $2,000; the payment of any fine imposed on a union officer or employe convicted of violating the Landrum-Griffin law; extortionate picketing; depriving union members of their rights by force or violence; the improper transfer of the funds of a trusteed local to its parent body; the serving as a union representative by a person previously convicted of specified crimes.

Of the 365,000 union representatives actively engaged in the daily business of running a labor union, seven have been convicted of depriving other union members of their rights through acts of force or violence; with seven others tried on similar charges and acquitted; four have been convicted of illegally holding union office; one was found guilty of destroying union records; three were indicted for failure to file union officer and employe reports, but none was convicted and after one of the three was acquitted, indictments against the other two were dismissed; three were charged with failure to secure union bonds, but again with none convicted.

The record, therefore, discloses that only 12 union representatives out of 365,000, or three one-thousandths of 1 percent (.003 percent) have been convicted during the first 10 years for Landrum-Griffin Act crimes other than embezzlement and those offenses dealing with union reporting under Title II of the act.

During the hearings on Title III, which severely restricts national and international unions in correcting local union abuses, labor leaders challenged the need for any federal law dealing with the imposition of union trusteeships over subordinate bodies. Recognizing that a few national or international unions had in the past abused their authority to impose trusteeships, union leaders argued that such abuse was not symptomatic of the labor movement. Consequently, they urged that no legislation be enacted until it was established that the evil was sufficient to require it.

AFL-CIO President George Meany told a Senate subcommittee in March 1958 that he doubted "a case has been made for federal regulation of trusteeships."

"We think it would, however, be desirable to find out whether the trusteeship abuses about which Sen. (John F.) Kennedy is concerned are in fact sufficiently widespread to call for government regulation," he said.

"We suggest, therefore, that there be added to the present Labor Department reporting provisions a requirement that international unions report the following: (1) the name of each subordinate body in trusteeship; (2) the date on which the trusteeship was established; (3) the reason for establishing the trusteeship; (4) whether the votes of the body in trusteeship were cast in union elections. A willfully false statement in such a report would be subject to the same criminal penalties as are such statements in other reports, and the powers proposed to be given the Labor Department to investigate the truth or falsity of reports filed with it would likewise apply.

"It may be that the bare requirement that a report of this sort be filed would, together with the other remedies now available, suffice to prevent trusteeship abuses," Meany told the subcommittee. "If not, the reports would at least provide information as to the need for further legislation and the directions it should take."

Although Meany's advice went unheeded, the history of this title of the law has demonstrated the wisdom of his recommendation.

In the 10 years, 1,757 Initial Trusteeship Reports were filed. This number, while seemingly

"The Department of Labor report . . . demonstrates that there was no need in 1959 for the broad reach of the Landrum-Griffin Act, as finally drawn, and there is no need today for a continuance of many of its ill-conceived provisions."

large, is actually relatively small since there are over 52,000 labor organizations in the United States and the average number of trusteeships imposed each year over the 10-year period is only 175. More important perhaps is that the Secretary of Labor, who is empowered to institute court action to set aside any trusteeship not established or maintained in good faith for a purpose permitted under Title III, has seen fit to challenge in court, as illegal, a grand total of only four trusteeships.

Title IV of the Labor-Management Reporting and Disclosure Act makes the federal government the overseer of union elections. It concerns itself with the frequency of elections and establishes many requirements which must be met before an election will be regarded as validly conducted.

The enforcement of these provisions rests solely with the Secretary of Labor. Under one section of the law, a union member, after exhausting the internal union remedies available to him or after invoking them without receiving a final decision within three months, may file an election complaint with the Secretary of Labor charging union election violations.

When such a complaint is filed, the secretary is required to initiate an investigation. If the evidence warrants it, the secretary may then bring an action against the union in a federal district court. If the court finds an election has not been held within the time set by the act, or that the violation of the act may have affected the outcome of an election, it is required to declare the election, if any, to be void and order a new election under the supervision of the Secretary of Labor.

In his testimony before the Senate subcommittee in March 1958, Meany expressed grave doubt "that governmental regulations of union elections is feasible or warranted." Time has proven he was right.

Of the approximately 52,000 local unions filing disclosure reports in each of the 10 years the Landrum-Griffin Act has been in existence, each must have had at least three elections since 1959 because under the act, local unions must hold an election at least once every three years. So the 52,000 local unions have held at least 156,000 elections during the first 10 years. The Secretary of Labor might have been expected to have a litigation-filing field day, with scores of union elections invalidated each year. Quite the opposite is true.

After 10 years under the law, the Secretary of Labor had sought court authority to set aside only 177 such elections; 155 of these law suits have been filed against local unions, 10 have been filed against intermediate bodies, such as district councils, and nine have been filed against national and international unions. Two suits named both a local union and a district council as defendants and one action was instituted against a national union and one of its districts. Up to June 30, 1969, final disposition has been made of 123 of these civil court actions of those 123 cases, 79 of the defendant unions were required to hold new elections under the supervision of the Secretary of Labor as a result of adverse court decisions or stipulations filed with the courts; 21 cases were settled by the unions involved stipulating that their future elections would be conducted in compliance with federal law; 10 cases were dismissed by agreement or at the request of the secretary; in 13 cases the courts upheld the validity of the elections and refused the secretary's request to set them aside.

"The setting aside by court order of only 79 union elections out of 156,000 seems ample proof that it was ridiculous in 1959 to claim that many labor organizations were run by hoodlums who perpetuate themselves in office through fraud and terror."

"I thought you said he wouldn't change when he got to be a Signal Supervisor."

The setting aside by court order of only 79 union elections out of 156,000 seems ample proof that it was ridiculous in 1959 to claim that many labor organizations were run by hoodlums who perpetuate themselves in office through fraud and terror.

Because of this 10-year history, some may argue that organized labor should not be too upset with the election provisions since only a handful of unions have been required to rerun their elections.

The answer to that argument is quite simple: The evil impact of the law cannot be determined solely by the number of elections ordered to be re-run. Other harassing factors must be considered, such as time-consuming, union-disrupting, unwarranted investigations and needless and fruitless court proceedings that drain union resources in terms of money and manpower. Even in most situations where re-run elections are court ordered and thereafter supervised by the Secretary of Labor, the re-runs are ordered because of trivial and unintentional non-observance of technical provisions of the law. Then, when these re-run elections are completed at great expense to the union, the union members have affirmed, sometimes by a more resounding vote, their original choice of leaders.

Since the enactment of the Landrum-Griffin Act in 1959, the Secretary of Labor has investigated well over 1,000 union elections. Because of computing methods used prior to 1963, reliable election activity statistics are not available for the entire 10-year period. However, during the past seven years, approximately 60 percent of the investigations produced only harassment and disruption, with justifiable bitterness against unecessary governmental intrusion into internal union affairs. Even the Secretary of Labor concluded that those investigations failed to uncover election violations warranting court action.

Even when the secretary does go to court and succeeds in getting an order setting aside a union election, the ultimate result of most re-run elections causes one to wonder what good, if any, has really been accomplished.

In that connection, the experience

of one AFL-CIO union caught in the toils of the law is worthy of note.

From April 1 through May 31, 1966, the National Maritime Union conducted a mail ballot election for national offices and, upon its conclusion, a complaint charging election violations was filed with the Secretary of Labor. After an investigation, the secretary brought suit to set aside the election. In April 1968, two years after the original election, the United States District Court ruled that the outcome of the challenged election may have been affected by election violations and ordered a re-run election under the supervision of the Secretary of Labor. This ruling was affirmed by the U.S. Court of Appeals in New York in July 1968 and the re-run election was held.

In the almost three years that elapsed between the original election and the re-run election, the NMU was constantly in and out of court defending itself against the secretary's legal moves or instituting protective legal moves of its own.

Finally, after three years of legal skirmishes, the re-run election was held. It covered a two-month period and was conducted on a global basis with voting taking place at 32 separate ports in the United States and elsewhere in the world. When it was all over the same slate of officers was overwhelmingly elected, winning all eight national offices as well as the other 87 offices at stake, namely 14 port agents, 14 field patrolmen and 59 patrolmen.

J. Albert Woll is the general counsel of the AFL-CIO. This article is based on a report on the Landrum-Griffin Act which he made to the AFL-CIO Secretary-Treasurers' Conference in New Orleans.

12-year itch

Organized labor must be on guard: 1971 is the year of the 12-year labor law itch. This is the way the Baltimore Sun explained it:

"The Wagner (Labor Relations) Act was passed in 1935. The Taft-Hartley Act, sharply restricting union privileges under the Wagner Act, was passed in 1947. The Landrum-Griffin Act, further restricting union privileges, was passed in 1959."

Traffic Fatalities Decline In 1970

FOR THE FIRST TIME IN ten years the rate of traffic fatalities has declined, yet the total number of traffic injuries in 1970 jumped almost half a million, to a record 5,100,000.

This information is contained in The Travelers Insurance Companies booklet "Voice Behind the Wheel," which annually publishes statistics on traffic accidents and related material.

The fact of the matter is that we cannot rejoice over the decline in traffic fatalities, which numbered 55,200 in 1970, when we notice that the number of those persons injured rose in such large numbers. But we can indeed look for reasons as to why traffic fatalities in 1970 did in fact decline by 1,300 persons.

Much of this reduction is attributed to the safety features which have been installed in new vehicles since 1966, according to The Travelers booklet. In addition, the number of vehicles with such devices is now large enough to show an effect on the overall fatality figures. And there seems to be other, not yet completely understood factors which also contributed to the lower fatality figure in 1970.

This is an encouraging sign, and the Federal and private agencies that are carrying out important research designed to create safer cars and highways must be commended.

Yet, even with safer cars and highways, it will be our acceptance of these safer automobiles, our continuing pressure on appropriate authorities, and our acknowledgement of individual responsibility that will insure that we reach our goal of fewer and fewer accidents on our streets and highways.

YOUR MONEY'S WORTH
by Sidney Margolius
CARPET SELLERS
ARE NOTORIOUS FOR SELLING TRICKS. ONE RUSE IS ADVERTISING "THREE ROOMS OF CARPETING" AT A LOW PRICE LIKE $199. BUT THE SMALL PRINT IN THE AD MAY LIMIT THE ACTUAL YARDAGE PROVIDED AT THE ADVERTISED PRICE TO BARELY ENOUGH FOR TWO SMALL ROOMS. ANOTHER FREQUENT HOAX IS TO ADVERTISE A LOW PRICE BUT OFFER ONLY A FEW UNATTRACTIVE COLORS AT THAT PRICE.
SOMETIMES SELLERS ADVERTISE RUGS AT A LOW PRICE "WITH PADDING." BUT THE PADDING MAY PROVE TO BE MERELY FOAM BACKING ON A THIN RUG.
GIVE YOUR DOLLAR MORE POWER
WHEN YOU SHOP FOR WOMEN'S AND CHILDREN'S APPAREL INSIST ON THE LABEL AT THE RIGHT. AT THE LEFT IS THE LABEL OF THE STOVE, FURNACE AND ALLIED APPLIANCE WORKERS INTERNATIONAL UNION.
UNION LABEL
UNION MADE
ILGWU

Safety Board To Hold Hearings On Train Wreck

THE NATIONAL TRANSportation Safety Board announced it will convene a public hearing July 13 in St. Louis as part of its investigation of the June 10 "City of New Orleans" passenger train wreck. Eleven persons were killed when the Amtrak train, operated by the Illinois Central Railroad, was derailed near Salem, Illinois.

The hearing will open at 9 a.m. Approximately 20 persons are expected to testify in an anticipated three days of hearings.

Safety Board Chairman John H. Reed has designated Board Member Louis M. Thayer to serve as Chairman of the Board of Inquiry. He will be assisted by David C. Zimmermann, Deputy General Counsel, and Thomas DeW. Styles, Chief of the Railroad Safety Division, who will serve as Hearing Officer.

"A summary of testimony will be issued shortly after the conclusion of the hearing," Member Thayer said. "A final report will be issued later setting forth the Safety Board's formal determination of probable cause and any appropriate recommendations to help prevent recurrence of such an accident."

LOCAL LODGE NEWS

By, for and about B. of R. S. members

General Chairman M. P. Hughes Honored On Retirement

On April 24 the C&O General Committee held a regular meeting in Huntington, W. Va. President Chamberlain and Vice President Gregg were in attendance.

President Chamberlain brought us up to date regarding the wage movement and answered our many questions with great patience.

During the meeting the resignation of General Chairman M. P. "Mike" Hughes was accepted with great reluctance. The position was assumed by H. H. Parker who as vice general chairman has worked closely with Mike for several years. Brother J. H. Butler will combine the work of vice chairman with his present duties of secretary-treasurer.

After the meeting a surprise dinner was given in honor of M. P. Hughes. Mike served as local chairman on the Clifton Forge Division from 1951 to 1956 when he became general chairman and served in that capacity until his retirement. Although a young man when he came to the United States from Ireland, Mike did not lose his Irish brogue—he just added a Virginian accent.

Mike and his wife, Gladys, plan to visit Ireland for a long delayed family reunion and will be able to use the luggage which the group presented to them.

Mike's hard work and untiring efforts in behalf of our Brotherhood have set an example for all of us. We hope he sets another good example by having a long and happy retirement.

J. H. Butler

Seaboard Coast Line (Former A.C.L.)

Florence, S.C. (84). The meeting held in Florence, S.C. on May 8 was called to order by the chief signalman and Brother James Harrelson opened the meeting with a prayer. There were seven officers and eight members present.

A motion carried that the minutes of the previous meeting be approved.

Applications of new members were ruled on by Brother A. M. Ezzell, R. S. Rawls and C. H. Brewer, and were accepted by the local. Brothers V. T. Smith, D. B. Bailey, D. W. Todd and C. L. Major received obligation into the order.

Brother J. C. Baldwin read the correspondence from Grand Lodge concerning our by-laws and the changes of the number of articles in the Constitution that were in error.

He also reported he had been approached by several officers of Local 105 who feel every effort should be made to merge Locals 85 and 105. He then read a letter that he sent to the officers of Local 105 expressing his views. He also reported that, to date, he had not received an answer from Local 105.

A discussion on honoring and respecting picket lines when a legal strike is in progress ended with a motion to include a letter from President Chamberlain with the minutes of this meeting. The letter covers the subject and expresses the policy of our Brotherhood.

Brotherhood officers and many friends gathered in Huntington, West Virginia, to honor a fellow officer, General Chairman M. P. "Mike" Hughes, who retired on April 24. Among the many attending were, seated left to right: J. H. Butler and Mrs. Butler (136), Mrs. J. M. Huff, Mrs. M. P. Hughes and Brother Hughes (G.C.), Mrs. H. H. Parker and Brother Parker (135). Standing, left to right: C. J. Chamberlain (President), Elwood Phelps (139), Hal Harlow (221), J. M. Huff (89), R. G. Hagley (216), Forrest Stewart (128), T. H. Gregg (Vice President), L. F. McCormick (128) and C. R. Durrett (89).

General Chairman Gross reported the four day work week for gangs was a result of negotiation after the strike ballot was circulated.

A general discussion on pay checks resulted with most in favor of sending the checks by U.S. mail.

Brother Gross also reported on claims concerning contracting of work, assigning of positions to other than the senior bidder, and progress made by Grand Lodge in our wage movement.

He also stated any member having a claim should file it within the time limits.

It was reported that tools stolen from camp cars have been replaced by the carrier. Inquiring about the condition of camp cars from gang members present, Brother Gross was informed that the condition of the cars they are staying in are terrible.

Brother Gross asked what the members thought about division gangs. A motion requesting the general chairman discuss the possibilities of division or state gangs with the carrier, was seconded.

When questioned on the possibility of speeding up the handling of claims, General Chairman Gross reported that the only way possible was as outlined by law.

The local extends best wishes to our sick Brothers: Ralph Daniel, N. D. Ford, Paul Hughes, R. D. Williams, C. G. Hall, L. R. Hodges, E. B. Hodges and D. J. Ennis.

T. E. Maness, Jr.

Santa Fe Retired Signalman Receives 50 Year Membership Pin

Brother Roy Tefft, a retired Santa Fe signalman, was presented with a Brotherhood 50 Year Membership Pin on August 3, 1971.

Brother Roy Tefft, a retired member of Local 173 and a former employe of the Santa Fe, received his Brotherhood 50 Year Membership Pin on August 3.

On that date in August, 52 years ago, Brother Tefft was obligated in B. of R. S. Carrollton Lodge No. 20, in Fort Madison, Iowa. He served Local 20 as recording secretary for four and one-half years.

In 1925 he was transferred to California and became affiliated with Local 156. Then in 1933, when Local Lodge No. 173 was instituted, as a charter member, he was elected to financial secretary. Later he was elected to recording and financial secretary, a position he held until the end of 1952.

He retired in January 1959 and the Journal is happy to report he is in good health.

On April 17, 1971 he was honored by a large gathering of Brother Masons and Sisters of the Eastern Star held in the Masonic Temple in Long Point, Illinois and presented with a 50 Year Pin and Life Membership in Long Point Lodge 552, A.F. and A.M.

Ed.

Canadian National

Edmundston, N.B. (167). A dinner meeting was held in Moncton, N.B. on May 15.

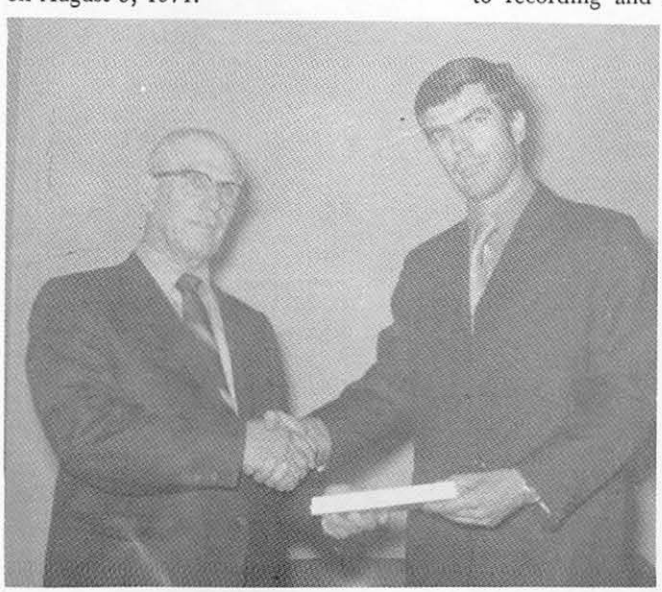
Attending the meeting were: Chief Signalman W. B. Lewis, Recording and Financial Secretary G. J. Lewis, General Chairman C. R. Scott, Local Chairman J. N. MacTaggart, and Brothers D. A. MacDonald, G. A. Tower, D. L. Harris, P. M. Robinson, J. C. Chisholm, E. F. Wilson, D. L. Tower, J. W. Lewis, W. W. Paugh, S. D. Sexton, W. P. Archibald, R. W. Smallwood, R. C. Lewis, G. A. Wilkins, P. D. Plume, A. O. Baker, H. G. Nelson.

Brother Hugh Green, signal maintainer at Moncton East, was honored on his retirement from the Canadian National and presented with a purse of money. The members of Local 167 hope Hugh and his wife will have a long and happy retirement.

Also honored were J. W. Lewis, Moncton, N.B. and W. B. Lewis, Charlottetown, P.E.I., who were presented with 25 year pins by Local Chairman J. N. MacTaggart.

The resignation of Local Chairman C. G. Richards was accepted with regret at this meeting.

The next meeting will be held in Campbellton, N.B. on July 17. Let's have a good turn out. G. J. Lewis



Brother Hugh Green, left, shown receiving gift presented by Brother G. J. Lewis, right. The presentation was made at a dinner meeting held in honor of Brother Green's retirement.

Local Chairman J. N. MacTaggart, right, presented 25 year brotherhood continuous service pins to Brothers J. W. Lewis and W. B. Lewis.

Why No Story On Our Local?

We occasionally receive letters asking why no story on some particular local has not been carried in The Signalman's Journal. The query may concern social affairs or some event.

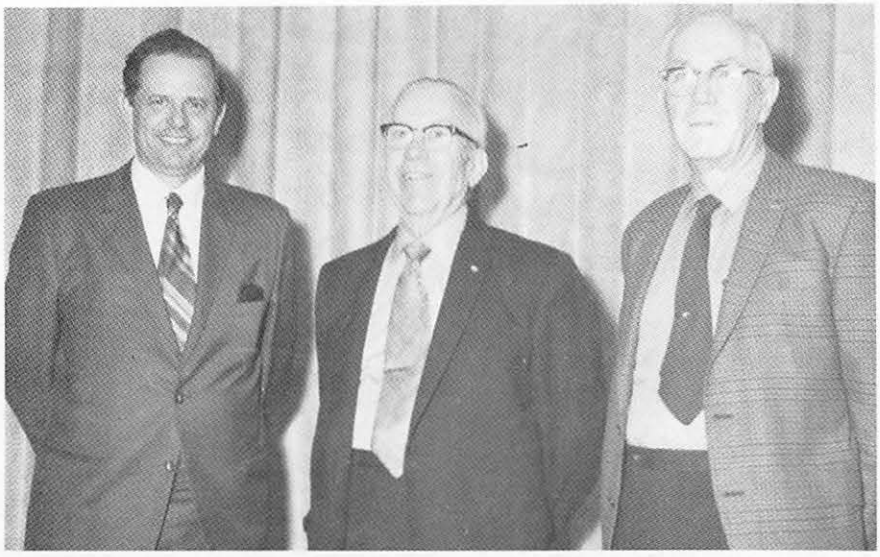
The answer is that we can't carry stories we do not receive. You send them and we will print them.

What Should You Send In?

Any important event in the life of the local is newsworthy, and local unions should see to it that the occasion is written up and forwarded to 2247 W. Lawrence Avenue, Chicago, Illinois 60625.

Examples of such events are:

- Election of local officers
- Initiation of new members
- Awarding of service pins and certificates
- Retirement of veteran members
- Parties honoring the local's anniversary
- Unusual job projects
- Community projects sponsored by the local
- Individual members' community service recognition
- Blood Bank campaigns
- Members' unusual hobbies or family projects.



Among the many attending Local 9's annual retirement dinner at Fond du Lac, Wisconsin were, left to right: C&NW General Chairman H. S. Gerth, retired former General Chairman R. B. Le Baron and retired General Secretary William M. Hines.

General Chairman Jess Morris, on left, of the T&P celebrated his 51st birthday on May 18 while on picket duty at B.O.P. Yard, Arlington, Texas. Jess was joined on the picket line by his dad, on right, former General Chairman J. E. Morris, who took time from his busy retirement schedule to assist the Signalmen.

A.T.&S.F.

McPherson, Kans. (33). Local 33 held a meeting at Emporia, Kansas on May 15. Thirty seven members were in attendance with Local Chairmen Page, Cleeton and Pulliam. Chief Signalman Max E. Craft officiated the meeting.

As usual, the large attendance at the meeting made it a very exciting meeting and with the oncoming wage negotiations it was even more so. Most discussion concerned the informing of our general chairmen of the local's desires for settling the negotiations.

As this is being written after the strike has been called off, I wish to state that for my part in the effort, it was more than proven to me what a true union is. The men were the most willing and cooperative that you can imagine. They worked day and night through rain and sun never complaining and always willing to help.

Brother Bill Lewis, our retired general chairman, was with us all the time and with his young age he kept up our morale while working on the picket line and answering the telephone. He brought along his grandson, Rod Humphreys, a new signal helper, to help in the effort.

The cooperation of other local unions was outstanding with their help with picketing, furnishing us with coffee, and generally being friends. With all this cooperation and support, and no matter what field of work we are in, its now more than ever very evident to me we are all truly brothers.

MAX E. CRAFT

Texas & Pacific

Arlington, Tex. (141). On May 17 and 18 many retired officers were given the opportunity to join active members of the Brotherhood of Railroad Signalmen on the picket lines. For many it was a first in their lives, even those who had been around for a long time.

Among those who came out of retirement for the occasion was Brother J. E. Morris. Brother Morris, now 75 years old, retired from the service of the Texas and Pacific Railway as a signal maintainer in March of 1961. Prior to his retirement he served as local chairman of Local 141 from 1933 to 1937, then was elected general chairman of the Texas and Pacific Lines and served until 1947.

In 1947 he voluntarily gave up the general chairman position but remained active in local affairs, serving continuously in such positions as chief signalman, trustee and a member of the rules committee, until his retirement in 1961.

It was during the lean, hard years of the thirties and early forties that Brother Morris and other officers of the local, with the support of the mem-

bership, using their rights under the Railway Labor Act to the fullest, forced on the Texas and Pacific the first meaningful Signalman's Agreement. What the officers did in this period forms the basis of our organization's present strength.

With this background of service for our Brotherhood, it was reported that Brother "Big Jess" was extremely pleased to have the opportunity to come out of retirement on May 17 and 18 to assist "Little Jess," present general chairman, J. J. Morris, and every other officer and member of our Brotherhood, on picket duty.

Brother Morris was also reported to be in excellent health and enjoying his retirement with Mrs. Morris in Arlington, Texas.

ED.

The members of Local 9, Chicago & North Western recently held their annual retirement dinner following their meeting. After the meeting adjourned many of those attending, shown above, enjoyed a social hour and get together before dinner.

Chicago, Rock Island & Pacific

Bureau, Ill. (183). The regular second quarter meeting of Local 183, Chicago, Rock Island & Pacific, was held at the Ranch House Motel, Bureau, Illinois on May 23. The meeting was called to order at 1:00 p.m. by Brother R. E. Hickerson, in the absence of Chief Signalman W. F. Berenking.

Fifteen members were present and Brother DeWayne Humphrey of Local 78 attended as a visitor. Grand Lodge Representatives W. B. Harwell and G. F. Harper also were present and they discussed several subjects of mutual interest.

Brother Harper gave a detailed report on the current Wage and Fringe Benefits Movement and explained the action taken by the U.S. Congress which extended the Railway Labor Act and provided for an interim increase in rates of pay. He also reported on the claims and grievances being handled and stated that some Carrier officers continue to perform craft work.

It was the consensus of all present that our Grand Lodge Officers should be commended for their handling of our wage case and other matters, and that they have the full support of Local 183.

The attendance at this meeting was one of the best we have had in quite a long time. It would be good to see all our members at the next meeting which will be held in the Ranch House Motel, Bureau, Illinois, on the fourth Sunday in August, 1971. M. L. MISKA

The above fifteen members of Local 183 attended the regular meeting on May 23 in Bureau, Ill. They were joined by a visitor and two Grand Lodge Officers, who assisted in conducting a very interesting meeting.

Chicago, Rock Island & Pacific

Little Rock, Ark. (17). The regular second quarter meeting of Local 17, Chicago, Rock Island & Pacific, was held in Little Rock, Ark., on May 8, with 10 members present.

Members who attended Local 17's quarterly meeting on May 8 are shown above. Seated, left to right: G. Jameson, Chief Signalman W. L. Stickley, Grand Lodge Representative G. F. Harper, former General Chairman and retired member W. C. Elms, and retired member L. B. Daugherty. The Brothers standing were members who attended the meeting but who were not identified for the Journal by the photographer.

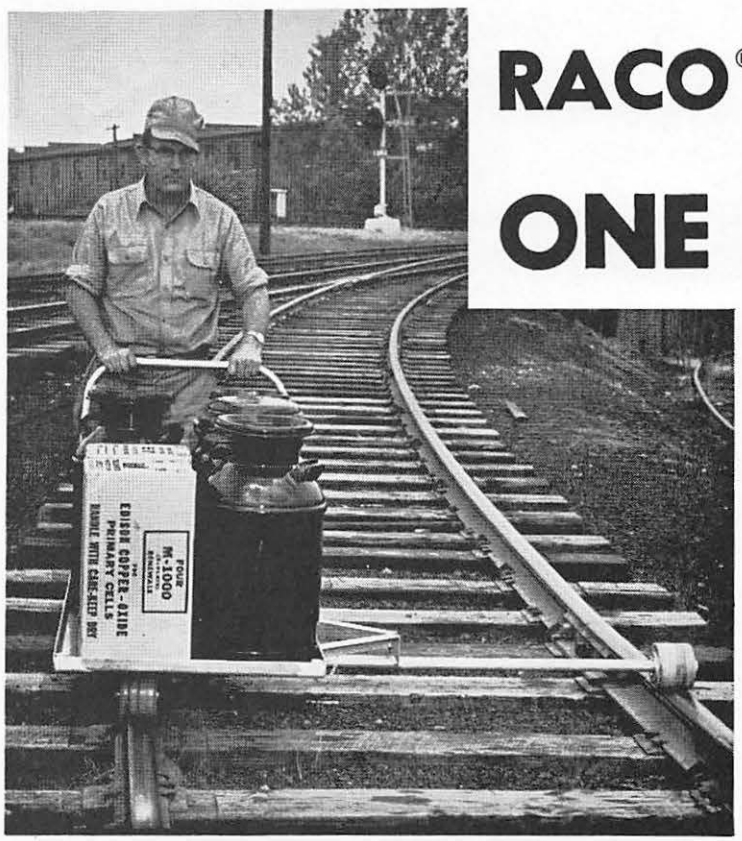
The Chicago, Milwaukee, St. Paul & Pacific-Lines East General Committee recently held its annual meeting in Portage, Wisconsin. Those attending are shown above, left to right: M. C. Lennon (219), A. F. Neises, general secretary; Leo T. Davies, general chairman; R. L. MacConahay (61), and L. E. Ferris (220). Also attending and serving as photographer was Vice President M. B. Frye.

Retired member and former General Chairman W. C. Elms and retired member L. B. Daugherty favored us with their presence. It is always good to see our retired Brothers attend the meetings and know they continue to have an interest in Brotherhood affairs.

The meeting was called to order by Chief Signalman W. L. Stickley who conducted the meeting in orderly procedure and in accordance with the Ritual.

In the absence of Brother M. W. Kiser, who was unable to attend because of illness in his family, Brother G. Jameson acted as secretary and gave a report of the communications of the secretary's office.

We were pleased to have in attendance Grand Lodge Representative G. F. Harper, who serves as our general chairman. Brother Harper gave an interesting report on the status of the current Wage and Fringe Benefits Movement, and the claims and grievances he is handling on the Rock Island. He pointed out that in some areas Carrier officials continue to perform scope work in violation of the agreement and he requested the cooperation of all concerned members to police the



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agreement and call his attention to any violations thereof.

He stated that some supervisory officers have made false statements to the signal engineer in a futile attempt to support certain agreement violations.

The meeting was very productive and enjoyed by all who attended.

G. JAMESON

Obituary

Granvil B. Cavender, member of Local 31, Western Maryland, passed away suddenly on April 12. He was 56.

Brother Cavender was an employe of Western Maryland Railway for 35 years, 24 of which he was signal maintainer at Hancock, Md.

At the time of his death, he was constable for Union Township, a post he held for the past six years.

Surviving are his wife, Catherine Mary Wiles Cavender; three daughters and five sons, to whom the officers and members of Local 31 extend their deepest sympathy. EDWIN V. WILLIAMS

F. E. Kirk, retired member of Local 102, Penn Central, passed away. He was 70.

Brother Kirk was a signalman cable splicer at Newark, New Jersey at the time of his retirement. He retired July 28, 1967 having completed 36 years of service.

The officers and members of Local 102 extend their deepest sympathy to his wife and surviving members of his family. ED.

Edgar A. Reilley, retired member of Local 88, New York Central (now P.C. Local 76) passed away April 4. He was 73.

Brother Reilley entered signal service in September 1917 as a signal helper on Sec. 'C' Hudson Division, New York Central Railroad. He qualified for maintainer two years later. For many years he was a signal mechanic in Pat Champion's Hudson Division Construction Force.

He retired in December 1962 after 45 years of signal department service. At the time of his retirement he was C.T.C. maintainer at Beacon, New York.

Brother "Peg" (dubbed that in boyhood when he could 'peg' a baseball further than any of his pals) was a long time member, and up to his retirement, for years a trustee of Local 88, Poughkeepsie, N.Y.

The officers and members, active and retired, extend their deepest sympathy to his wife, son and daughter, and all the surviving members of his family. T. J. RYAN (retired)

John C. Hinkle, retired member of Bison City Local 151, Lehigh Valley Railroad, passed away recently. He was 80.

Brother Kinkle retired in 1956 after completing 44 years of service. He was a signal maintainer at Geneva, N.Y. at the time he retired.

He was a loyal member of Bison City Local 151 for many years during which he held the offices of chief signalman, recording and financial secretary and local chairman. He attended many meetings after his retirement and kept in touch with his many friends.

The officers and members of Local 151 extend their deepest sympathy to the surviving members of his family.

Jack McClosky

Harold Pensworth, recently retired member of Bison City Local 151, Lehigh Valley Railroad, passed away. He was 57.

Brother Pensworth began his railroad career in 1948 and retired in 1970 because of illness. He worked as a signalman in the Buffalo Division Construction Gangs and at the time of his retirement was a signal welder in the Sayre Signal Shops.

Born in Laceyville, Pa., he resided there until the time of his death.

Surviving are his wife and three children to whom the officers and members of Local 151 extend their deepest sympathy.

Jack McClosky

Clarence I. Blackstone, retired member of Local 80, Penn Central, passed away on May 10. He was 73.

"Blackie," as he was affectionately known to all his friends, became a member of Local 80 on January 1, 1921. He served as financial secretary from 1928 to 1948.

At the time of his retirement on May 1, 1964, after completing 46 years of service, he was leading signal maintainer at Schenectady, New York.

The officers and members of Local 80 extend their deepest sympathy to Mrs. Blackstone and all surviving members of his family. J. A. WEININGER

Ralph C. Anderson, retired member of Bison City Local 151, Lehigh Valley Railroad, passed away June 22. He was 68.

During his 27 years of service with the Lehigh Valley he held positions of signal maintainer, leading signal maintainer, Burdett, N.Y.; and signal supervisor in Buffalo, New York. He began his railroad career in 1941 and retired in 1968. Brother Anderson was a conscientious worker and his willingness to help his fellow workers was common knowledge.

"Andy" was a loyal member of Local 151 and served several terms as recording secretary.

The officers and members of Local 151 express their deepest sympathy to the surviving members of his family.

Jack McClosky

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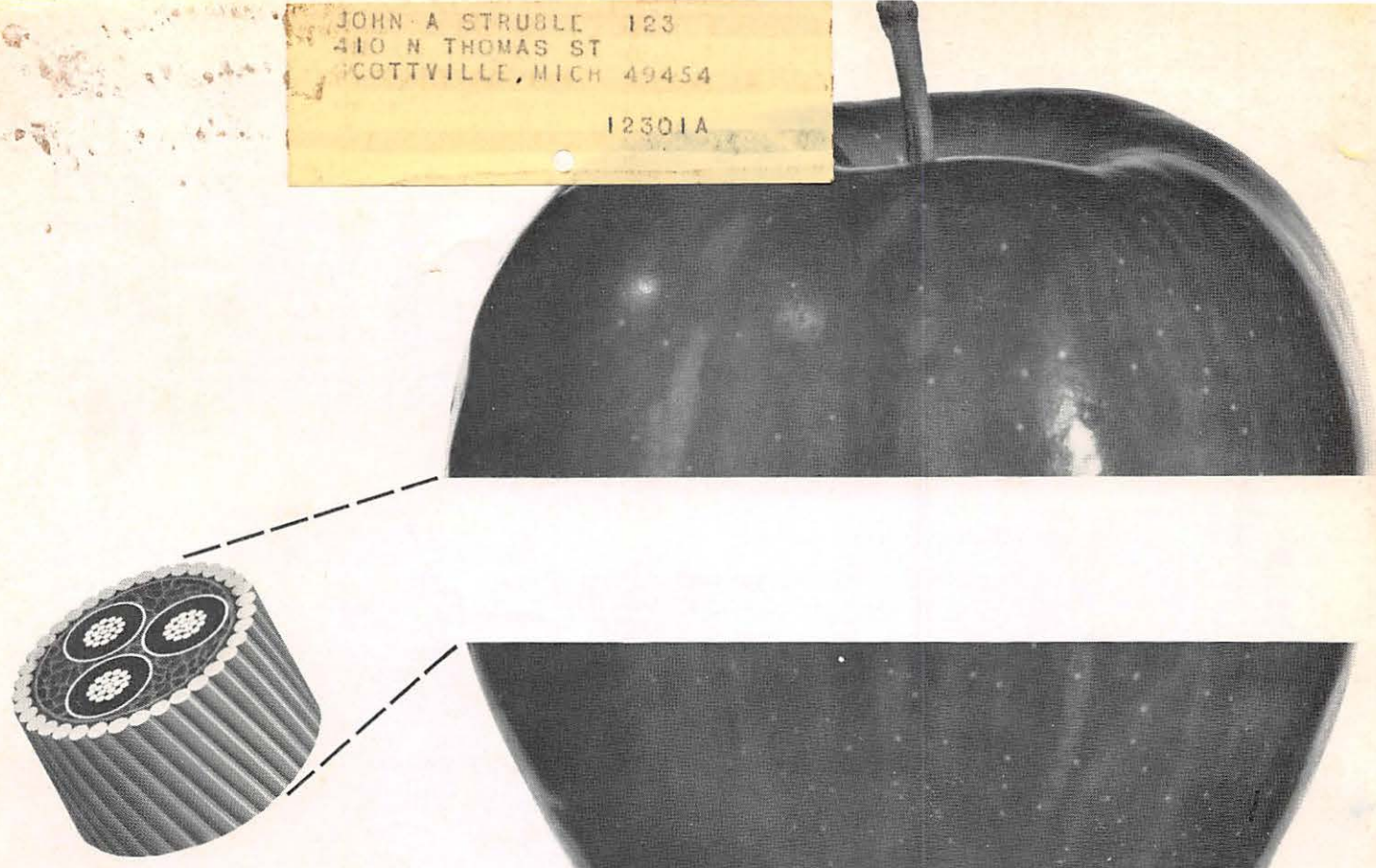

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